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CHAPTER 483

An act to amend Sections 241.2, 241.3, 243.2, and 243.3 of the Penal Code, relating to schools.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 241.2 of the Penal Code is amended to read:

241.2. (a) When an assault is committed on school property against any person, the assault is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(b) "School," as used in this section, means any school established pursuant to Chapter 3 (commencing with Section 25500) of Division 18.5 of the Education Code, and any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school.

SEC. 2. Section 241.3 of the Penal Code is amended to read:

241.3. When an assault is committed against the person of an operator or driver of a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle operated on land, including a vehicle operated on stationary rails or on a track or rail suspended in the air, used for the transportation of persons for hire, or against a schoolbus driver, or against the person of a station agent or ticket agent for the entity providing such transportation, and the person who commits the offense knows or reasonably should know that the victim is engaged in the performance of his or her duties, and the victim is engaged in the performance of his or her duties, the offense shall be punished by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 3. Section 243.2 of the Penal Code is amended to read:

243.2. (a) When a battery is committed on school property against any person, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(b) "School," as used in this section, means any school established pursuant to Chapter 3 (commencing with Section 25500) of Division 18.5 of the Education Code, and any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school.

SEC. 4. Section 243.3 of the Penal Code is amended to read:

243.3. When a battery is committed against the person of an operator or driver of a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle operated on land, including a vehicle operated on stationary rails or on a track or rail suspended in the air, used for the transportation of persons for hire, or against a schoolbus driver, or against the person of a station agent or ticket agent for the entity providing such transportation, and the person who commits the offense knows or reasonably should know that the victim is engaged in the performance of his or her duties, and the victim is engaged in the performance of his or her duties, the offense shall be punished by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If an injury is inflicted on that victim, the offense shall be punished by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 484

An act to add Section 4450.5 to the Government Code, relating to building standards.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 4450.5 is added to the Government Code, to read:

4450.5. The State Architect's regulations adopted pursuant to Section 4450 shall require that all parking spaces reserved for the handicapped be identified as prescribed by Sections 22511.7 and 22511.8 of the Vehicle Code.

CHAPTER 485

An act to amend Section 903 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) A parent of a minor, the estate of a parent, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to an order of the juvenile court. The liability of these persons and estates shall be a joint and several liability.

(b) It shall be the responsibility of a county to demonstrate to any person against whom it seeks to enforce the liability established by this section, that the charges it seeks to impose are limited to the reasonable costs of support of the minor and that these charges exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. Except in those placements of a minor in which an AFDC-FC grant is made, the county shall separately itemize the cost of each major component, such as food, clothing, and medical expense, contained within the costs of support of the minor, for any person against whom the county seeks to impose liability under this section. An AFDC-FC grant shall be considered a separate, indivisible component item of the cost of support of a minor. Nothing in this section shall preclude the district attorney from seeking reimbursement of AFDC-FC costs pursuant to Section 11350.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to insure reasonable uniformity throughout the state in the level of liability being imposed, and to insure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income. Except in those placements of a minor in which an AFDC-FC grant is made, and except as provided in paragraphs (1), (2), and (3), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be

adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

(2) No cost for medical expenses shall be imposed by the county until the county has first exhausted any eligibility the minor may have under private insurance coverage, standard or medically indigent Medi-Cal coverage, and the Robert W. Crown California Children's Services Act (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

(3) In calculating the cost of medical expenses, the county shall not charge in excess of 100 percent of the AFDC fee for service average Medi-Cal payment for that county for that fiscal year as calculated by the State Department of Health Services; however, if a minor has extraordinary medical or dental costs that are not met under any of the coverages listed in paragraph (2), the county may impose these additional costs.

CHAPTER 486

An act to amend Sections 226 and 226.2 of the Labor Code, relating to wage payments.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall semimonthly, or at the time of each payment of wages, furnish each of his or her employees either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by each employee whose compensation is based on an hourly wage; (3) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee or his or her social security number; and (7) the name and address of the employer.

(b) Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney fees.

(c) Any employer who knowingly and intentionally violates the provisions of this section shall be subject to a fine of one hundred dollars ($100) for each pay period in which a violation occurs.

(d) This section shall not apply to the state, or any city, county,

city and county, district, or any other governmental entity.

SEC. 2. Section 226.2 of the Labor Code is amended to read:

226.2. Every employer who pays wages in cash shall semimonthly or at the time of each payment of wages furnish each employee an itemized statement in writing showing: (1) all deductions, including, when applicable, deductions for federal income tax, state income tax, disability insurance, health and welfare payments, and any other deductions authorized by the employee; (2) total hours worked by each employee whose compensation is based on an hourly wage; (3) the inclusive dates of the period for which the employee is paid; (4) the name of the employee or the employee's social security number; and (5) the name of the employer.

The deductions made from cash payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of such statement, or a record of the deductions, shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employer's records shall be available for inspection by the employee upon reasonable request.

This section shall not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of such owner or occupant.

Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with this section shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney fees.

This section shall not apply to the state, or any city, county, city and county, district, or any other governmental entity.

SEC. 3. This act shall become operative on January 1, 1986.

CHAPTER 487

An act to amend Sections 22520.5 and 40000.13 of the Vehicle Code, relating to highways.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 22520.5 of the Vehicle Code is amended to read:

22520.5. (a) No person shall solicit, display, sell, offer for sale, or otherwise vend or attempt to vend any merchandise or service while being wholly or partly within any of the following:

(1) The right-of-way of any freeway, including any on-ramp, off-ramp, or roadway shoulder which lies within the right-of-way of the freeway.

(2) Any roadway or adjacent shoulder within 500 feet of a freeway off-ramp or on-ramp.

(3) Any sidewalk within 500 feet of a freeway off-ramp or on-ramp, when vending or attempting to vend to vehicular traffic.

(b) Subdivision (a) does not apply to a roadside rest area or vista point located within a freeway right-of-way which is subject to Section 22520.6, to a tow car or service vehicle rendering assistance to a disabled vehicle, or to a person issued a permit to vend upon the freeway pursuant to Section 670 of the Streets and Highways Code.

(c) A violation of this section is an infraction. A second or subsequent conviction of a violation of this section is a misdemeanor.

SEC. 2. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

(c) Section 21651, subdivision (b), relating to wrong-way driving on freeways.

(d) Section 22520.5, a second or subsequent conviction of an offense relating to vending on or near freeways.

(e) Section 22520.6, a second or subsequent conviction of an offense relating to roadside rest areas and vista points.

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

CHAPTER 488

An act to add Section 2505 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 2505 is added to the Vehicle Code, to read:

2505. Notwithstanding Sections 2501 and 2502, for the purpose of staggering license renewals subject to this chapter, the commissioner may, during any 12-month period, issue licenses that expire 6 to 18 months from the date of issue. Subsequent renewal of these licenses

shall be required at annual intervals. Fees with respect to these licenses for more or less than one year shall be prorated accordingly.

This section applies only to licenses for the transportation of hazardous materials and other license categories established on or after January 1, 1982.

CHAPTER 489

An act to add Section 84040.7 to the Education Code, relating to community colleges.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 84040.7 is added to the Education Code, to read:

84040.7. (a) It is the intent of the Legislature in enacting this section that community college districts shall be fully accountable for the accuracy of the accounting and reporting of student attendance. However, it is also the intent of the Legislature that any minor or inadvertent errors in a district's student attendance records shall be resolved in a fair and equitable manner by the Chancellor of the California Community Colleges.

(b) The apportionment to a community college district for any fiscal year following the fiscal year affected by an audit conducted in the 1980–81 fiscal year or in any fiscal year thereafter, or affected by the district's declaration of a discrepancy subsequent to the submission of the annual student attendance report, shall not be affected by the audit or declaration, provided all of the following conditions are met:

(1) The district has corrected the basis for the audit finding or declaration of discrepancy to the satisfaction of the chancellor.

(2) During the fiscal year immediately following the fiscal year in which the audit finding or declaration of discrepancy was made, the district replaced the lost average daily attendance with average daily attendance which is fundable but would not otherwise be funded. Notwithstanding any other provision of law, the funding for the replacement average daily attendance shall not exceed that used to reduce the district's revenue following the audit or declaration of discrepancy.

(c) For the 1984-85 fiscal year, the costs of implementing this section shall be met with funds from the appropriation to Section B of the State School Fund made by the Budget Act of 1984.

(d) Any positive adjustment to a district's apportionments resulting from the implementation of this section shall not affect prior year apportionments to other districts.

CHAPTER 490

An act to amend Sections 73683, 73691, 74922.5, and 74923 of the Government Code, relating to courts.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel who shall receive a salary at the range indicated in the Fresno County Salary Resolution:

(1) One Assistant to Municipal Court Clerk-Conf. at salary range 646.

(2) One Administrative Secretary-Conf. at salary range 698.

(3) One Stenographer II-Conf. at salary range 472.

(4) One Stenographer I-Conf. at salary range 387.

(5) Three Chief Deputy Clerks at salary range 763.

(6) Twelve Court Clerks at salary range 623.

(7) Two Supervising Legal Process Clerks at salary range 691.

(8) Four Senior Legal Process Clerks at salary range 671.

(9) Ten Legal Process Clerks at salary range 623.

(10) Forty-seven Office Assistant III at salary range 475.

(11) Forty-seven Office Assistant II at salary range 429.

(12) Forty-seven Office Assistant I at salary range 359.

(13) One Municipal Court Interpreter at salary range 552.

(b) Salary ranges indicated in paragraphs (1), (2) and (5) of subdivision (a) are effective October 11, 1982. Salary ranges indicated in paragraphs (3) and (4) and paragraphs (10) through (12) of subdivision (a) are effective September 10, 1982. Salary ranges indicated in paragraphs (6) through (9) of subdivision (a) are effective January 3, 1983. Salary range indicated in paragraph (13) of subdivision (a) is effective September 12, 1983.

(c) The clerk may appoint any combination of stenographers described in paragraphs (3) and (4) of subdivision (a) not to exceed a total of one, and may appoint any combination of the specified number of personnel indicated in each of paragraphs (5) through (12) of subdivision (a) not to exceed a total of 61.

(d) The clerk may appoint the following court personnel in the Clovis Branch who shall receive a salary at the range indicated in the Fresno County Salary Resolution:

(1) One Court Clerk at salary range 623.

(2) One Supervising Legal Process Clerk at salary range 691.

(3) Two Legal Process Clerks at salary range 623.

(4) Six Office Assistants III at salary range 475.

(5) Six Office Assistants II at salary range 429.

(6) Six Office Assistants I at salary range 359.

(e) Salary ranges indicated in paragraphs (1) through (3) of subdivision (d) are effective January 3, 1983. Salary ranges indicated in paragraphs (4) through (6) of subdivision (d) are effective September 10, 1982.

The clerk may appoint any combination of the specified number of personnel indicated in each of paragraphs (2) through (6) of subdivision (d) not to exceed a total of six.

SEC. 2. Section 73691 of the Government Code is amended to read:

73691. A majority of the judges may appoint nine full-time court reporters to serve at the pleasure of the judges and to be paid an annual salary established according to the following salary schedule:

Step 1. $25,974
Step 2. $27,274
Step 3. $28,626
Step 4. $30,056

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

SEC. 3. Section 74922.5 of the Government Code is amended to read:

74922.5. There shall be one marshal for each municipal court who shall receive a biweekly salary of one thousand eighty dollars ($1,080). The marshal of the Visalia Judicial District may appoint four deputy marshals and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint two deputy marshals and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 4. Section 74923 of the Government Code is amended to read:

74923. The biweekly salaries for the following classes of positions shall be 80 times the hourly rate set forth in the following schedule:

		Hourly rate				
	Range	A	B	C	D	E
Clerk of the municipal court	162	9.8310	10 3310	10 8560	11.4060	11 9860
Assistant clerk of the municipal court	147	8 4750	8 9050	9 3560	9 8310	10 3310
Court clerk III	131	7 2340	7.6010	7 9870	8 3920	8.8170
Court clerk II	114	6 1160	6 4260	6 7510	7 0930	7 4520
Court clerk I	100	5 3280	5.5970	5.8800	6 1770	6.4900
Account clerk	100	5 3280	5 5970	5.8800	6 1770	6 4900
Intermediate clerk-typist	96	5 1220	6.3810	5 6520	5 9380	6.2380
Deputy marshal	148	8.5590	8 9940	9 4490	9 9290	10 4340

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 491

An act to amend Section 73351 of the Government Code, relating to courts.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984]

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

SECTION 1. Section 73351 of the Government Code is amended to read:

73351. There are the following classes of positions into which each of the positions of the municipal courts and marshal's office shall be assigned as prescribed in the section pertaining to each court or to the marshal's office.

(a) Deputy clerk I, which shall include all municipal courts and marshal's office employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk II, which shall include all municipal courts and marshal's office employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source

documents.

(e) Deputy clerk-criminal process, which shall include all municipal court employments assigned complex clerical work in the criminal section of a municipal court involving responsibility for the establishment, maintenance, calendaring, issuance of process and updating of criminal case records using manual and automated systems.

(f) Deputy clerk III, which shall include all municipal court employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I, deputy clerks II, or deputy clerks-criminal process.

(g) Process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I or deputy clerks II.

(h) Supervising process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes and supervises the work of several deputy clerks I, deputy clerks II and process clerks.

(i) Executive secretary, which shall include one position in the Marshal's Office assigned to serve as the confidential secretary to the marshal.

(j) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(k) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(*l*) Chief deputy clerk, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and subject to the designation of the clerk-administrator, being responsible for court operations in the absence of the clerk-administrator.

(m) Clerk-administrator of the court, which shall include any municipal court position in a multijudge court (Schedule A in court with five through seven judges, Schedule B in court with two through four judges) charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

(n) Deputy marshal-recruit, which shall not be a peace officer, and shall only be assigned to attend a basic academy course of study to gain P.O.S.T. approved peace officer status.

(o) Deputy marshal, which shall include all marshal's office employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and acting as bailiff when the municipal court is in session.

(p) Deputy marshal sergeant, which shall include any position in a marshal's office responsible for assigning and reviewing the work of several deputy marshals in serving court processes and other peace officer activities.

(q) Assistant marshal, which shall include any position in the marshal's office responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities or, who, under direction of the marshal, shall be responsible for day-to-day operation of the marshal's office.

(r) Marshal, which shall be the nonelective position responsible for the management and supervision of the duties of the office of marshal for all the judicial districts.

(s) Court commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

The board of supervisors may create a new class or classes by combining two or more of the above classes and specifying the number of positions for each new class and the compensation therefor, provided that such new class or classes shall be effective only until January 1 of the second year following the calendar year in which the combination of classes is made.

CHAPTER 492

An act to amend Sections 12970 and 19702 of the Government Code, relating to discrimination in employment.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 12970 of the Government Code is amended to read:

12970. (a) If the commission finds that a respondent has engaged in any unlawful practice under this part, it shall state its findings of fact and determination and shall issue and cause to be served on the parties an order requiring such respondent to cease and desist from such unlawful practice and to take such action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, as, in the judgment of the commission, will effectuate the purposes of this part, and including a requirement for

report of the manner of compliance.

(b) If the commission finds the respondent has engaged in an unlawful practice under this part, and the respondent is licensed or granted a privilege by an agency of the state to do business, provide a service, or conduct activities, and the unlawful practice is determined to have occurred in connection with the exercise of that license or privilege, the commission shall provide the licensing or privilege granting agency with a copy of its decision or order.

(c) If the commission finds that a respondent has not engaged in any such unlawful practice, the commission shall state its findings of fact and determination and shall issue and cause to be served on the parties an order dismissing such accusation as to such respondent.

(d) Any findings and determination made or any order issued pursuant to this section shall be written and shall indicate the identity of the members of the commission who participated herein.

(e) Any order issued by the commission shall have printed on its face references to the rights of appeal of any party to the proceeding to whose position the order is adverse.

(f) If the commission finds that a respondent has engaged in an unlawful practice under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 286, 288, 288a, or 289 of the Penal Code, the commission, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

SEC. 2. Section 19702 of the Government Code is amended to read:

19702. (a) A person shall not be discriminated against under this part because of sex, race, religious creed, color, national origin, ancestry, marital status, or physical handicap unless it can be shown that the particular handicap is job related.

(b) As used in this section, "physical handicap" includes, but is not limited to, impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

(c) As used in this section, "physical handicap" shall not include obesity or any other health impairment caused by the person's obesity.

(d) If the board finds that a person has engaged in discrimination or harassment under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 286, 288, 288a, or 289 of the Penal Code, the board, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

CHAPTER 493

An act to amend Section 709.010 of the Code of Civil Procedure, relating to trusts.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 709.010 of the Code of Civil Procedure is amended to read:

709.010. (a) As used in this section, "trust" has the meaning provided in Section 1138 of the Probate Code but includes a trust subject to court supervision under Article 1 (commencing with Section 1120) of Chapter 19 of Division 3 of the Probate Code.

(b) The judgment debtor's interest as a beneficiary of a trust is subject to enforcement of a money judgment only upon petition under this section by a judgment creditor to a court prescribed in Chapter 19 (commencing with Section 1120) of Division 3 of the Probate Code (administration of trusts). The judgment debtor's interest in the trust may be applied to the satisfaction of the money judgment by such means as the court, in its discretion, determines are proper, including but not limited to imposition of a lien on or sale of the judgment debtor's interest, collection of trust income, and liquidation and transfer of trust assets by the trustee.

(c) Upon petition of the judgment creditor under this section, the court may make an order that the trustee withhold and pay to the judgment creditor all or a portion of the amount that otherwise would be paid periodically to the judgment debtor from the trust. Unless the order otherwise provides, the order shall continue in effect until the judgment of the judgment creditor is satisfied or the order is modified or terminated. In the case of a spendthrift or support trust, the order may not require that the trustee pay to the judgment creditor any exempt portion of the amount that otherwise would be paid periodically to the judgment debtor from the trust; and, for this purpose, the exempt portion is the amount that the court determines is substantially equivalent to the amount that would be exempt on a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law), including, but not limited to, amounts determined under Sections 706.050, 706.051, and 706.052. Nothing in this subdivision limits the right of the state or other public entity to recover for support provided to a trust beneficiary or to recover for payments made for the support of a trust beneficiary.

(d) Except to the extent that the court order otherwise specifically provides, the provisions of any order entered under subdivision (c) shall not become effective until 30 days after the order has been served upon the trustee, except that the trustee may

waive all or any portion of the 30-day period. Within the 30-day period, the trustee may file with the court that made the order a petition requesting clarification of any of the provisions of the order. Notwithstanding any contrary provision of law, the trustee is not required to pay any fee to the clerk of the court as a condition to filing a petition under this subdivision or any subsequent document in connection with a petition. If any provision of the order is modified or set aside, the court, on motion of the judgment creditor or judgment debtor, may set aside or modify other provisions of the order. The trustee, the judgment creditor, and the judgment debtor may present evidence or further evidence that is relevant to the issues to be decided by the court at any hearing on the trustee's petition. The court shall take such evidence into account in determining those issues. Nothing in this subdivision limits any right of a trustee to petition a court under Chapter 19 (commencing with Section 1120) of Division 3 of the Probate Code.

(e) Where the trust gives the trustee discretion over the payment of either principal or income of a trust, or both, nothing in this section affects or limits that discretion or requires the exercise of that discretion in any particular manner. The trustee has no duty to oppose a petition under this section or to make any claim for exemption on behalf of the trust beneficiary. The trustee is not liable for any action taken or omitted to be taken in compliance with any court order made under this section.

(f) Except as provided in subdivisions (c), (d), and (e), nothing in this section affects the law relating to enforcement of a money judgment against the judgment debtor's interest in a spendthrift trust, but surplus amounts from a spendthrift trust liable pursuant to Section 859 of the Civil Code are subject to enforcement of a money judgment under this section.

SEC. 2. This act applies to all trusts, as defined in Section 709.010 of the Code of Civil Procedure, whether the trust is created before or after the effective date of this act.

CHAPTER 494

An act to add Section 1752.82 to the Welfare and Institutions Code, relating to Youth Authority wards.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1752.82 is added to the Welfare and Institutions Code, to read:

1752.82. (a) It is the intent of the Legislature that wards of the Youth Authority be held accountable for intentional damage and

destruction of public property committed while they are confined in Youth Authority facilities. To that end, and notwithstanding the provisions of Sections 1752.8 and 1752.81, the Youth Authority may deduct from a ward's trust fund any amounts that are necessary to pay for intentional damage to public property caused by the ward while confined within an institution or other facility of the Youth Authority.

(b) The Youth Authority shall utilize the procedures in its regulations for disciplinary actions to determine whether the damage or destruction was intentionally caused by the ward and, if so, to determine the amount to be deducted to pay for the damage or destruction.

(c) Funds that are deducted shall remain with the Youth Authority and shall be used to repair or replace the public property damaged or destroyed as provided for in the Budget Act for that fiscal year.

CHAPTER 495

An act to add Section 32212 to the Education Code, relating to education.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 32212 is added to the Education Code, to read:

32212. (a) The Legislature finds and declares that interruption of class time seriously impairs the educational process.

(b) It is the intent of the Legislature that each governing board of a school district formally address the problem of classroom interruptions and adopt a policy to control those interruptions, consistent with local circumstances and practices.

(c) The Superintendent of Public Instruction shall develop and distribute to each governing board of a school district a model policy for the reduction and control of classroom interruptions, including, but not limited to, intercom and public address system use.

CHAPTER 496

An act to add Division 11.5 (commencing with Section 9500) to the Streets and Highways Code, relating to improvement bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Division 11.5 (commencing with Section 9500) is added to the Streets and Highways Code, to read:

DIVISION 11.5. REFUNDING ACT OF 1984 FOR 1915 IMPROVEMENT ACT BONDS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

9500. This division shall be known and may be cited as the "Refunding Act of 1984 for 1915 Improvement Act Bonds."

9501. The procedures of this division are an alternative to Division 11 (commencing with Section 9000) which relates to the refunding of bonds under the Improvement Bond Act of 1915.

9502. It is hereby declared that it is a public purpose for a local agency to issue refunding bonds for the purposes set forth in this division and to invest and reinvest the proceeds thereof, and any other funds legally available therefor, for the purposes set forth herein.

9503. The legislative body of any city in this state may issue refunding bonds and refund outstanding bonds issued under the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500), under and subject to the provisions of this division, and may provide for the extension of the liens of assessments and the levy and collection of assessments and reassessments to pay the refunding bonds.

9504. It is the intention of this division that the outstanding bonds and the original assessments shall remain in full force and effect and secured by the original assessments until superseded and supplanted by reassessments and refunding bonds validly and legally issued pursuant to this division, at which time the reassessments shall become the security for the refunding bonds and the refunding escrow shall become the security for any outstanding bonds not exchanged for refunding bonds.

9505. Any action or determination made necessary by reason of state or federal constitutional requirements or otherwise, or any action or determination which is convenient in the making of the reassessment, or in the refunding and reassessment proceedings, which is not expressly set forth in this division is hereby authorized and the same when made shall be valid and sufficient.

9506. Any city may retain or employ any qualified person to

perform any work or perform any services provided for or authorized by this division or in connection with the refunding of any indebtedness authorized to be refunded under this division.

9507. The incidental expenses of any refunding and reassessment authorized by this division, including the designated costs of issuing the refunding bonds, as defined and determined pursuant to Chapter 3 (commencing with Section 9600), may be paid from the proceeds of sale of the refunding bonds or from contributions and appropriations made pursuant to Section 9510.

9508. Subject to Section 9509, when proceedings are commenced under this division, only this division shall apply.

9509. A reassessment proceeding under this division may be conducted concurrently with proceedings under any other applicable reassessment law and all resolutions, notices, reports, and other documents and proceedings required by each law may be consolidated into single instruments.

9510. Contributions and appropriations may be made at the times and in the manner provided in Article 2 (commencing with Section 9125) of Chapter 3 of Division 11, the terms of which are hereby referred to and incorporated herein by reference.

9511. This division does not affect any other act or acts now existing or which may hereafter be passed covering the same subject matter, nor apply to any proceedings thereunder, but is intended to and does provide an alternative system for the refunding of bonds.

9512. The remedies provided for the enforcement of any reassessment levied under the provisions of this division are not exclusive and additional remedies may be provided at any time.

9513. The curative clauses of this division are cumulative and each of them is to be given full force and effect.

9514. This division and all of its provisions shall be liberally construed in order that its purposes may be made effective.

9515. In the event of a foreclosure or action to quiet title, process shall be served upon the same person or persons as in other cases of suits against the city.

9516. The purchaser, whether at a tax collector's sale or at a resale by the city in the event of the city having become the purchaser, or at a foreclosure sale by order of court, takes the property subject to all unpaid reassessment installments, interest, and penalties under the same proceeding.

9517. Unless the particular provision or the context otherwise requires, the definitions contained in the Improvement Bond Act of 1915 shall govern the construction of this division.

The term "act," as used in this division, means the Improvement Bond Act of 1915.

CHAPTER 2. REASSESSMENT PROCEEDINGS

9520. The legislative body of any city which has issued bonds which are outstanding under the act may, at any time, determine by

resolution that the public interest or necessity requires the refunding of the issue of bonds, and declare its intention to refund the bonds and to levy reassessments as security for the refunding bonds.

9521. Two or more issues of bonds issued under the act may be refunded in one proceeding under this division and only one issue of refunding bonds issued therefor, to be secured by all of the reassessments levied in lieu of the original assessments.

9522. The proceedings for refunding two or more issues of bonds shall follow as nearly as may be the procedure for the refunding of one issue, with the modifications and changes in the resolutions, notices, reassessment list, bonds, auditor's report, summons, complaints, and all other proceedings as may be necessary or convenient in carrying through the proceedings, and the legislative body conducting the proceedings is hereby granted full jurisdiction, power, and authority to refund two or more issues of bonds issued under the act in one proceeding under this division and with only one issue of refunding bonds secured by all of the reassessments and to perform all acts, take all steps and proceedings, provide all notices, and do all acts and things necessary or convenient for the refunding that are not prohibited by the United States Constitution or the California Constitution.

9523. The resolution referred to in Section 9520 shall direct a qualified person retained or employed pursuant to Section 9506 to prepare and file with the city clerk a report containing the following:

(a) A schedule setting forth the unpaid principal and interest on the bonds to be refunded and the total amounts thereof.

(b) The total estimated principal amount of the reassessment and of the refunding bonds and the maximum interest rate thereon, together with an estimate of cost of the reassessment and of issuing the refunding bonds, including all costs of issuing the refunding bonds, as defined by subdivision (a) of Section 9600.

(c) The auditor's record kept pursuant to Section 8682 showing the schedule of principal installments and interest on all unpaid original assessments and the total amounts thereof.

(d) The estimated amount of each reassessment, identified by reassessment number corresponding to the reassessment number on the reassessment diagram, together with a proposed auditor's record for the reassessment prepared in the manner described in Section 8682.

(e) A reassessment diagram showing the assessment district and the boundaries and dimensions of the subdivisions of land within the district. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram.

9524. When the report provided for in Section 9523 is filed with the clerk, the clerk shall present it to the legislative body for consideration. The legislative body may modify it in any respect. The report as modified shall stand as the report for the purpose of all subsequent proceedings, except that it may be confirmed, modified, or corrected as provided in this chapter.

9525. If the legislative body finds that all of the following conditions are satisfied, it may approve and confirm the report prepared pursuant to Section 9523 and proceed to authorize, issue, and sell refunding bonds pursuant to Chapter 3 (commencing with Section 9600):

(a) That each estimated annual installment of principal and interest on the reassessment as set forth pursuant to subdivision (d) of Section 9523 is less than the corresponding annual installment of principal and interest on the original assessment as set forth in subdivision (c) of Section 9523.

(b) That the number of years to maturity of all refunding bonds is no more than the number of years to the last maturity of the bonds being refunded.

(c) That the amounts of any reassessments are computed by reducing each original assessment by the same percentage.

9526. If the legislative body is unable to make the findings required by Section 9525, it may proceed with refunding and reassessment by preliminarily approving the report and by fixing a time and place for hearing on the report and on the proposed refunding and reassessment.

9527. Notice of the hearing shall be given by publication, pursuant to Section 6062a of the Government Code, in a newspaper of general circulation published in the city or, if there is no newspaper published in the city, then in a newspaper of general circulation published in the county in which the city is located, and by mailing in the time and manner required by Section 10306. The notice shall set forth the fact and date of the adoption of the resolution of intention and of the filing of the report and all of the following:

(a) A statement of the time, place, and purpose of the hearing on the resolution of intention and report.

(b) A statement of the total estimated cost of the proposed reassessment and refunding.

(c) The amount, as shown by the report, to be reassessed against the particular parcel covered by the notice.

(d) A statement that any person interested may file a protest in writing as provided in this division.

(e) A reference to the resolution of intention and report on file in the office of the city clerk for particulars.

Any consents of landowners required by the state or federal constitutions shall be obtained in the time, form, and manner required by Chapter 5 (commencing with Section 9180) of Division 11, the terms of which are hereby referred to and incorporated herein by reference.

9528. Any person interested in any of the property to be reassessed may file a written protest against the proposed refunding or the amount reassessed against that person's or any other property, as shown in the statement, at, or at any time prior to, the time fixed for the hearing on the refunding and assessment. The protest shall specifically set forth the nature thereof. Failure to file a written

protest shall be a waiver of any right which the person may have or claim.

9529. Any person who files a protest shall have full opportunity to be heard thereon.

9530. At the time and place fixed for the hearing, the legislative body shall hear any complaints or objections that may be made concerning the proposed refunding, the amount of unpaid assessments, or the amounts of proposed reassessments as to any of the parcels of land to be reassessed.

9531. At the hearing, no objections to the regularity of the proceedings with reference to the making of the improvements or the validity or the amount of any assessment levied in the original proceedings shall be considered. All other objections to any reassessment shall be deemed waived unless presented at the time and in the manner specified in this chapter.

9532. The determination of the legislative body upon all objections or protests shall be final and conclusive.

9533. The hearing may be continued from time to time by order entered in the minutes, but shall be concluded within 30 days from the date originally fixed.

9534. At the hearing, the legislative body may review and correct the amount of any reassessments upon any parcel of land.

9534.5. If the legislative body finds that protests against the proposed refunding or the proposed reassessments are signed by the owners of more than one-half of the area of the land proposed for reassessment, all further proceedings under the resolution of intention to refund are barred, and no new resolution of intention for the same refunding may be passed within six months after the decision of the legislative body on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the legislative body. The legislative body may confirm, modify, or correct the proposed assessment.

9535. At the conclusion of the hearing, in the absence of a majority protest pursuant to Section 9534.5, the report and the reassessment as originally made, or as reviewed and corrected, shall be approved and confirmed by resolution entered upon the minutes.

9536. When the reassessment, as made or as reviewed and corrected, has been confirmed by the legislative body, it shall be recorded in the office of the superintendent of streets.

9537. When recorded with the superintendent of streets and upon compliance with the provisions of Division 4.5 (commencing with Section 3100), the reassessment shall become a lien upon the various parcels of land assessed.

9538. Assessments originally levied, and all penalties and interest accrued thereon, shall be deemed superseded and supplanted by the reassessments.

9539. The lien of the reassessments shall be given superiority and priority as of the date that the original assessments became a lien upon the property reassessed.

9540. Reassessments and each installment thereof and the

interest and penalties thereon shall be a lien against the parcels of land on which made until the same are paid, but for a period not exceeding the time within which an action might be brought on the last series of refunding bonds issued upon the security of the unpaid reassessments.

9541. Unmatured installments, interest, and penalties on unpaid reassessments shall not be deemed to be within the terms of any general warranty of title as to any parcel against which a reassessment is made.

9542. When refunding bonds are issued, the reassessments and any reassessments which may be issued thereon or in lieu thereof, together with interest thereon, shall remain and constitute a trust fund for the redemption and payment of the refunding bonds and the interest thereon.

9543. A copy of the resolution of the legislative body confirming the reassessments upon the security of which the refunding bonds are issued shall be filed in the office of the auditor.

9544. The auditor shall keep a record in his office showing the several installments of principal and interest on the reassessments which are to be collected in each year during the term of the bonds.

9545. The reassessments and interest thereon shall be collected on the assessment roll and are subject to reassessment, amendment, and prepayment, and are otherwise subject to all of the provisions of the act in the same manner and subject to the same remedies on default and to the payment of interest and penalties on the enforcement thereof as were the original assessments which were superseded and replaced by the reassessments. For these purposes, the applicable provisions of Parts 8, 9, 10, 10.5, 11, 11.1, 13, 14, and 15 of Division 10 are hereby referred to and incorporated herein by reference.

CHAPTER 3. ISSUANCE OF REFUNDING BONDS

9600. In this chapter, the following terms are used with the following meanings:

(a) "Costs of issuing the refunding bonds" means those of the following costs and expenses which are designated by the legislative body in the resolution providing for the issuance of the bonds:

(1) All expenses incident to the calling, retiring, or paying of the bonds to be refunded and to the issuance of refunding bonds, including any bond counsel, financial consultants, underwriters, and rating agency fees, printing and advertising costs, city administrative expenses, and the charges of any escrow agent or trustee in connection with the issuance of the refunding bonds or in connection with the redemption or retirement of the bonds to be refunded.

(2) Interest upon the refunding bonds from the July 2 next preceding the date of sale thereof to no later than the July 2 next succeeding two years from the date.

(3) Any accrued and unpaid interest on the bonds to be refunded.

(4) Any premium necessary in the calling or retiring of the bonds

to be refunded.

(b) "Designated costs of issuing the refunding bonds" means whichever of the items specified in paragraphs (1), (2), (3), and (4) of subdivision (a) which are designated by the legislative body in the resolution providing for the issuance of refunding bonds.

(c) "Federal securities" means those securities described in Sections 1360 and 1360.1 of the Financial Code and includes United States Treasury notes, bonds, bills, or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

9601. The legislative body shall provide for the issuance of the refunding bonds by resolution.

9602. The refunding bonds shall be issued in a principal amount equal to the total principal amount of the reassessment as approved and confirmed by the legislative body pursuant to either Section 9525 or Section 9535.

9603. The refunding bonds shall represent and be secured by the reassessments and any later reassessments which may be levied or issued upon the same property in lieu of the reassessments.

9604. Refunding bonds issued pursuant to this division shall comply with the following requirements which shall be set forth in the resolution adopted pursuant to Section 9601:

(a) Bonds shall be in the fully registered form and of the denominations as the legislative body may determine.

(b) The date of the bonds shall be the date of the recording of the reassessment.

(c) Bonds shall be signed by the mayor or other chief executive of the city and by the city treasurer and attested by the city clerk, with the seal of the city affixed thereto.

(d) Bonds shall be numbered appropriately and shall bear interest and mature as provided in the contract with the bond purchasers.

9605. All of the refunding bonds shall mature on July 2.

9606. In no event shall the first maturity of any refunding bonds be earlier than the second day of July next succeeding 10 months after the date of the bonds.

9607. The last maturity of any refunding bonds shall not exceed 24 years from the second day of July next succeeding 10 months after the date of the bonds.

9608. The rate of interest on refunding bonds shall not exceed the rate set forth in the resolution of intention adopted pursuant to Section 9520.

9609. The interest on refunding bonds shall be payable on January 2, and July 2, respectively, of each year.

9610. The first interest payment on the bonds shall in every case be January 2 next preceding the second day of July next succeeding 10 months after the date of the bonds.

9611. Refunding bonds and the interest thereon shall be paid at the office of the treasurer or at any other place as is set forth in the bonds.

9612. Each bond shall be conclusive evidence of the regularity of all proceedings for the levy of reassessments and the issuance of the refunding bonds and of the validity of said bonds and of all proceedings of which the bonds refunded were conclusive evidence.

9613. Refunding bonds issued pursuant to this chapter may be exchanged for the bonds to be refunded on any basis the legislative body determines is for the benefit of the city. As an alternative to exchanging the refunding bonds for the bonds to be refunded, the legislative body may sell the refunding bonds at public or private sale and at a price at or below par or with a premium. The proceeds of any sale of refunding bonds for cash shall be placed in the treasury of the local agency to the credit of a fund to be established for the purpose of refunding the bonds to be refunded, and the proceeds shall be applied only as permitted by this division.

9614. The designated costs of issuing the refunding bonds may be paid by the purchaser of the refunding bonds or may be paid from any other legally available source, including the general fund of the city, other available revenues of the city under the control of the legislative body, the proceeds of sale of the refunding bonds, the interest or other gain derived from the investment of any of the proceeds of sale of the refunding bonds, any other moneys in escrow or in trust or any combination thereof as the legislative body may determine.

9615. Any proceeds of sale of any refunding bonds may be deposited in escrow or trust with any bank or trust company within or without the state, or both within and without the state, shall be secured in accordance with the laws applicable to funds of the city and shall be invested in federal securities.

9616. The proceeds and investments in escrow or trust shall be in an amount at the time of issuance of such refunding bonds which is certified by a certified public accountant licensed to practice in this state to be sufficient, together with any interest or other gain to be derived from any such investment, to pay the principal of and interest and redemption premiums, if any, on the refunded bonds as they become due or at designated dates prior to maturity (in connection with which the legislative body has exercised or has obligated itself to exercise a redemption privilege on behalf of the city), and the designated costs of issuance of the refunding bonds.

9617. Following the issuance of any refunding bonds pursuant to this article, the legislative body of the city shall provide for the payment of principal and interest thereon in the same manner and at the same times as it provides for payment of principal and interest on bonds issued pursuant to the act. The reassessments levied pursuant to this division shall be and constitute security for the payment of the refunding bonds in the same manner as the original unpaid assessments constituted security for the refunded bonds.

9618. Any outstanding refunded bonds which have been exchanged for refunding bonds shall be canceled by the city treasurer.

9619. The treasurer shall keep a register in his or her office which shall show the series, number, date, amount, rate of interest, and registered owner of each bond. The treasurer shall cancel and file each bond paid.

CHAPTER 4. CURATION AND VALIDATION

9700. The validity of any refunding bonds issued under this division shall not be contested in any action, suit, or proceeding unless the action or proceeding is brought within 30 days after the adoption of the resolution providing for their issuance.

9701. After the reassessment has been confirmed, it shall not be contested in any way other than at the time and in the manner specified in this division, and in any action, all findings, conclusions and determinations of the legislative body which conducted the reassessment proceedings shall be conclusive in the absence of actual fraud.

9702. No defect in the form of any reassessment levied pursuant to this division and no statutory defect in any of the proceedings relating to the reassessment and refunding shall in any way invalidate any reassessment or any refunding bond.

9703. No bond, reassessment, or installment thereof, or of the interest or penalties thereon, and no certificate of sale or deed shall be held invalid for error in the computation of the proper amount due on it if the error be found to be comparatively negligible or is found to be in favor of the owner of real property affected thereby.

9704. An action to determine the validity of a reassessment and of any refunding bonds issued or to be issued thereon may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. For that purpose, the reassessment shall be deemed to be in existence upon its confirmation.

9705. If any reassessment or any refunding bond is held illegal or invalid in any action or proceeding upon any ground which would apply to the entire reassessment or the entire issue of refunding bonds, then the unpaid bonds refunded remain in full force and effect. If the unpaid bonds have been canceled, the treasurer of the city which conducted the invalid refunding or reassessment proceedings shall issue new bonds of the same tenor, force, and effect as the canceled unpaid bonds.

9706. If refunding bonds are invalidated or held to be illegal, all of the provisions of the act shall apply to the original bonds and to any bonds issued under Section 9705 to replace the original bonds.

9707. No action or proceeding to set aside, cancel, avoid, annul, or correct any reassessment levied under this division, or to review any of the proceedings, acts, or determinations made in the

proceedings for the reassessment and the issuance of refunding bonds, or to question the validity of or enjoin the collection of the reassessment or any of the reassessments therein, or to enjoin the issuance of any bonds to represent reassessments, shall be maintained by any person, nor shall any person urge, plead or prove, the invalidity of any reassessment or any refunding bond in any action, unless the action is commenced within 30 days from the date of adoption of the resolution providing for the issuance of the refunding bonds.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Money market conditions in the past few years have resulted in the issuance of assessment bonds under the Improvement Bond Act of 1915 by many public agencies at extraordinarily high interest rates and there are not adequate procedures under existing law to obtain relief through refinancing. In order that relief may be provided as soon as possible, it is necessary that this act go into effect immediately.

CHAPTER 497

An act to amend Sections 1250 and 1267.7 of, and to add Section 208.4 to, the Health and Safety Code, relating to health and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 208.4 is added to the Health and Safety Code, to read:

208.4. (a) Notwithstanding the provisions of Section 11346.1 of the Government Code regarding the duration of emergency regulations, any regulations which were adopted by the Director of Health Services pursuant to Section 208.3 and which were in effect on June 27, 1984, shall remain in effect until emergency regulations promulgated pursuant to subdivision (b) become effective.

(b) The director shall adopt emergency regulations pursuant to Section 1267.7, to be effective August 1, 1984, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(c) The director shall transmit emergency regulations adopted

pursuant to subdivision (b) directly to the Secretary of State for filing, and the regulations shall become effective immediately upon filing.

(d) Upon completion of the formal regulation adoption process and prior to the expiration of the 120-day duration period of emergency regulations, the director shall transmit directly to the Secretary of State for filing the adopted regulations, the rulemaking file, and the certification of compliance, as required by subdivision (e) of Section 11346.1 of the Government Code.

(e) Notwithstanding any provision of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any regulations adopted by the director pursuant to this section and any documentation filed with those regulations shall not be subject to any review, approval, disapproval, or repeal by the Office of Administrative Law.

SEC. 2. Section 1250 of the Health and Safety Code is amended to read:

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

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

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

following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

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

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

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

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

(g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

SEC. 3. Section 1267.7 of the Health and Safety Code is amended to read:

1267.7. (a) The State Department of Health Services and the State Department of Developmental Services shall jointly develop and implement licensing and Medi-Cal regulations appropriate to intermediate care facility/developmentally disabled habilitative facilities. The State Department of Developmental Services and the Office of Statewide Health Planning and Development shall jointly develop and implement construction and certificate of need regulations appropriate for intermediate care facility/developmentally disabled habilitative. These regulations shall ensure that residents of these facilities are assured appropriate developmental and supportive health services in the most normal, least restrictive physical and programmatic environment appropriate to individual resident needs. Regulations promulgated pursuant to this section shall include provision for maximum utilization of generic community resources in the provision of services to residents and participation of the residents in community activities.

(b) On or before July 1, 1984, the State Department of Health

Services shall require that each licensed intermediate care/developmentally disabled habilitation facility have an overall staff-to-client ratio of one staff member to each two clients and provide direct-care services 24 hours a day by staff who are qualified by experience or education in developmental disabilities. Each facility shall have all of the following staff services:

(1) Qualified personnel and supporting staff necessary to carry out the programs and meet the needs of individual clients shall be available in the facility whenever clients are present.

(2) When clients are not present in the facility, prior arrangements shall be made for the notification of direct-care staff in case of an emergency.

(3) The facility shall employ a qualified mental retardation professional who shall have the responsibility for supervising the implementation of each client's individual plan of care, integrating the various aspects of the facility's program, recording each client's progress, and initiating periodic review of each individual plan of care for necessary modifications or adjustments. "Qualified mental retardation professional" means a person who has specialized training or two years' experience in treating or working with the developmentally disabled and is one of the following:

(A) A person with a master's degree in psychology from an accredited program.

(B) A licensed physician and surgeon, which means a person licensed as a physician and surgeon by the Board of Medical Quality Assurance or by the Board of Osteopathic Examiners.

(C) An educator with a degree in education from an accredited program.

(D) A person with a bachelor's degree in social work from an accredited program or from a field other than social work with at least three years of social work experience under the direction of a social worker with a master's degree.

(E) A physical therapist, which means a person licensed as a physical therapist by the Board of Medical Quality Assurance.

(F) An occupational therapist, which means a person who is registered or is eligible for registration by the American Occupational Therapy Association.

(G) A speech pathologist, which means a person licensed as a speech pathologist by the Board of Medical Quality Assurance.

(H) An audiologist, which means a person licensed as an audiologist by the Board of Medical Quality Assurance.

(I) A registered nurse, which means a person licensed as a registered nurse by the Board of Registered Nursing.

(J) A recreation therapist, which means a person with a specialization in therapeutic recreation who is registered or eligible for registration as a recreation therapist by the National Therapeutic Recreation Society.

(K) A rehabilitation counselor, which means a person who is certified or eligible for certification by the Committee on

Rehabilitation Counselor Certification and who has specialized training or one year of experience in treating the developmentally disabled.

(4) The facility shall employ a qualified professional on mental retardation who shall provide a minimum of 1.5 hours of services per week per client.

(5) If more than one qualified mental retardation professional is employed by the facility, the person who is responsible for development and implementation of the programs shall be designated as supervisor of the program staff.

(6) In addition to the qualified professional on mental retardation, the facility shall provide, either through direct employment or by contractual arrangement, an interdisciplinary professional staff to assist in the development and implementation of programs and to provide training and expertise to the program staff.

(7) The interdisciplinary team is responsible for the following duties:

(A) The continuing interdisciplinary evaluation of individual clients for the purposes of initiation, monitoring, and followup of individualized habilitation programs.

(B) The development for each client's individual program plan, and a detailed, written statement of all of the following:

(i) Case management goals, encompassing the areas of physical and mental health, education, and functional social competence.

(ii) A management plan detailing the various habilitation or rehabilitation modalities which are to be applied in order to achieve the specified goals with a clear designation of responsibility for implementation.

(iii) Any use of restraint or postural support.

(C) The statement of treatment goals and management plans shall be reviewed and updated as needed, but at least annually.

(8) The interdisciplinary professional staff shall be composed of at least three persons selected from at least three of the following disciplines:

(A) A person, with a master's degree in psychology from an accredited program, who shall have a minimum of two years' experience with the developmentally disabled.

(B) A recreation therapist.

(C) An occupational therapist.

(D) A physical therapist.

(E) A social worker, with a bachelor's degree in social work, who has at least three years of social work experience under the supervision of a social worker with a master's degree and two years' experience working with the developmentally disabled.

(F) A speech pathologist.

(G) An educator with a degree in education from an accredited program who shall have a minimum of two years experience working with the developmentally disabled.

(H) A registered nurse.

(I) A licensed physician and surgeon.

(J) A pharmacist.

In addition to the foregoing, the composition of the interdisciplinary professional staff shall be appropriate to the clients' needs.

(9) The total time of the interdisciplinary professional staff for an intermediate care facility/developmentally disabled habilitative shall be at least one-half hour per week per client.

(10) The primary responsibility of the staff shall be the care and development of the clients, as follows:

(A) Personnel shall train clients in activities of daily living and in the development of self-help and social skills.

(B) Direct-care staff shall not be diverted from their primary responsibilities by excessive housekeeping or clerical duties or activities not related to client care when clients are physically present in the facility.

(C) Input from direct-care staff shall be used in developing appropriate referral planning, initiation, coordination, implementation, following through, monitoring, and evaluation activities relative to the care and the development of the client.

(c) Regulations developed pursuant to this section shall include licensing and certificate-of-need application fee schedules appropriate to facilities, which will encourage their development. Regulations adopted pursuant to this section shall require the State Department of Developmental Services to review and approve an applicant's program plan as part of the licensing and certification process. However, nothing in this section is intended to supersede the authority of the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 to the extent that those sections are applicable to community care facilities.

(d) On or before July 1, 1984, and each year thereafter, the State Department of Health Services, in consultation with the State Department of Developmental Services, shall establish rates of reimbursement for intermediate care/developmentally disabled habilitation facilities based upon all of the following:

(1) The actual documented cost of providing the services.

(2) The cost of living based on the most recent estimate of the cost of living set out in the current consumer price index established by the United States Department of Labor, Bureau of Labor Statistics.

(e) Additional rates of reimbursement shall be provided to facilities located in geographic areas of the state experiencing an unusually higher cost of living. However, the rate of reimbursement established on July 1, 1984, shall not be lower than fifty-eight dollars ($58) for each client day in facilities having seven to 15 beds and sixty-five dollars ($65) for each client day in facilities having four to six beds.

(f) An intermediate care/developmentally disabled habilitation facility shall be issued a license by the State Department of Health Services if the facility satisfies all of the following criteria:

(1) It has been licensed by the State Department of Health Services as an intermediate care/developmentally disabled habilitation facility and continues to meet or exceed the minimum requirements established for those facilities by the United States Department of Health and Human Services, as of the effective date of this section.

(2) It has filed an application for licensure with the State Department of Health Services after January 1, 1984, but prior to the effective date of this section, and has accomplished all of the following:

(A) Met or exceeded the minimum requirements established for the facilities by the United States Department of Health and Human Services.

(B) Has an approved certificate of need.

(C) Is in compliance with the requirements of the State Fire Marshal's office.

(D) Has a program plan approved by the State Department of Developmental Services.

(g) Intermediate care/developmentally disabled habilitation facilities, within two years of being licensed by the State Department of Health Services, shall be accredited by the Joint Commission on Accreditation of Hospitals' Accreditation Council for services for mentally retarded and other developmentally disabled persons or other similar accrediting agency having equivalent standards for accreditation. If, within two years of licensure, a facility described in this section has not met or exceeded the standards for accreditation, the State Department of Health Services, in consultation with the State Department of Developmental Services, shall establish a plan of correction for the facility. If, within one year from the date of establishment of the plan of correction, a facility has not met the plan of correction, the facility license may be revoked. Any costs associated with accreditation surveys or assessments conducted by, or under the auspices of, the Joint Commission on Accreditation of Hospitals or a similar accrediting agency with equivalent standards shall be paid from funds appropriated to the State Department of Developmental Services.

(h) This section shall become operative only if the director fails to adopt new emergency regulations pursuant to Section 208.4 for intermediate care facility/developmentally disabled-habilitative facilities by August 15, 1984, or fails to adopt permanent regulations for these facilities by January 1, 1985.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that persons with developmental disabilities are not displaced from existing out-of-home community placements into more restrictive living arrangements, it is necessary that this act take effect immediately.

CHAPTER 498

An act to amend Section 23305 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 23305 of the Revenue and Taxation Code is amended to read:

23305. Any taxpayer which has suffered the suspension or forfeiture provided for in Section 23301 or Section 23301.5 may be relieved therefrom upon making application therefor in writing to the Franchise Tax Board and upon payment of the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, together with all other taxes, deficiencies, interest and penalties due under this part, and upon the issuance by the Franchise Tax Board of a certificate of revivor. Application for such certificate on behalf of any domestic bank or corporation which has suffered such suspension may be made by any stockholder or creditor, by a majority of the surviving trustees or directors thereof, by an officer, or by any other person who has interest in the relief from suspension. Application for such certificate may be made by any foreign bank or corporation which has suffered such forfeiture, by any stockholder or creditor thereof, by an officer, or by any other person who has interest in the relief from forfeiture.

CHAPTER 499

An act to amend Sections 9262, 11101, 11102, 11102.5, 11104, 11105, 11105.1, 11110, 11508, 11620, 11717, and 11822 of, and to repeal and add Section 11105.2 to, the Vehicle Code, relating to occupational licenses.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 9262 of the Vehicle Code is amended to read:

9262. (a) The fee for a license issued to dealers and lessor-retailers shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred fifty dollars ($150).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) If an alteration of an existing license is caused by a firm name change, address change, change in the corporate officer structure, or the addition of a branch location, a fee of seventy dollars ($70).

(b) The fee for a license issued to dismantlers, manufacturers, manufacturer branches, remanufacturers, remanufacturer branches, distributors, and distributor branches shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred dollars ($100).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) If an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifty dollars ($50).

(4) If an alteration of an existing license is caused by a change in the corporate officer structure, a fee of seventy dollars ($70).

(c) The fee for a license issued to transporters shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred dollars ($100).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) If an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifty dollars ($50).

(4) If an alteration of an existing license is caused by a change in the corporate officer structure, a fee of seventy dollars ($70).

(d) The fee for a license issued to representatives shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of fifty dollars ($50).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(e) When the holder of a license as indicated above applies for special plates as provided in subdivision (b) of Section 11714, the fee for the plates and the annual renewal of the plates shall be the prevailing vehicle registration fee as set forth in Section 9250 during the period for which the special plates are issued or renewed.

SEC. 2. Section 11101 of the Vehicle Code is amended to read:

11101. (a) The provisions of this chapter shall not apply to any of the following:

(1) Public schools or educational institutions in which driving instruction is part of the curriculum.

(2) Nonprofit public service organizations offering instruction without a tuition fee.

(3) Nonprofit organizations engaged exclusively in giving off-the-highway instruction in the operation of motorcycles, if the course of instruction is approved by the National Highway Traffic Safety Administration and is not designed to prepare students for examination by the department for a class 4 drivers license.

(4) Commercial schools giving only off-the-highway instruction in the operation of special construction equipment, as defined in this code.

(5) Vehicle dealers or their salesmen giving instruction without charge to purchasers of motor vehicles.

(6) Employers giving instruction to their employees.

(7) Commercial schools engaged exclusively in giving off-the-highway instruction in the operation of racing vehicles or in advanced driving skills to persons holding valid drivers' licenses, except whenever such instruction is given to persons who are being prepared for examination by the department for any class of driver's license.

(b) For purposes of this section, "racing vehicle" means a motor vehicle of a type which is used exclusively in a contest of speed and which is not intended for use on the highways.

SEC. 2.5. Section 11102 of the Vehicle Code is amended to read:

11102. (a) A driving school owner shall:

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially; or has not committed any act which, if done as a licensed driving school owner, would be grounds for the suspension or revocation of the license. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section

(2) Maintain an established place of business open to the public. No office or place of business shall be situated within 500 feet of any

building used by the department as an office, unless the owner was established at such location on or before January 1, 1976.

(3) Have the proper equipment necessary to giving instruction in the operation of the class of vehicles for which the course is designed.

(4) Procure and file with the department a bond in the amount of two thousand dollars ($2,000) executed by an admitted surety insurer and conditioned that the applicant shall not practice any fraud or make any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant.

(5) Meet the requirements of Section 11102.5 and 11105.2. If the owner is not the operator of the driving school, the owner shall designate an operator who shall meet the requirements of Section 11102.5.

(6) File with the department a good and sufficient instrument in writing in which the owner shall appoint the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association, or out of any claim for damages suffered by any firm, person, association, or corporation by reason of the violation of the applicant of any of the terms and provisions of this code or any condition of the driving school owner's bond. The applicant shall stipulate and agree in such appointment that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence, in such a case which is served upon the director, or in the event of the director's absence from the office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree in writing that the agency created by the appointment shall continue for and during the period covered by the license and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond. The instrument appointing the director as agent for the applicant for service of process shall be acknowledged by the applicant before a notary public. In any case wherein the licensee is served with process by service thereof upon the director, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. The service on the director shall be a sufficient service on the licensee; provided, that a notice of the service and a copy of the summons and complaint shall be forthwith sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall be mailed by the plaintiff or his attorney to the surety of the applicant's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process so

served upon him or her which record shall show the day and hour of service and shall retain the summons and complaint so served on the licensee on file. Where the licensee is served with process by service thereof upon the director, the licensee shall be allowed 30 days from and after the service thereof within which to answer any complaint or other pleading which may be filed in the cause; and provided, further, that for purposes of venue, where the licensee is served with process by service thereof upon the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her established place of business.

(b) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination and fee shall be required.

SEC. 3. Section 11102.5 of the Vehicle Code is amended to read:

11102.5. (a) A driving school operator shall:

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit the person or another substantially, or to injure another substantially; or has not committed any act which, if done as a licensed driving school operator, would be grounds for the suspension or revocation of his or her license. A conviction following a plea of nolo contendere is a conviction within the meaning of this section.

(2) Within three attempts, pass an examination as the department shall require on traffic laws, safe driving practices, operation of motor vehicles, teaching methods and techniques, driving school statutes and regulations, and office procedures and recordkeeping.

(3) Pay to the department a fee of one hundred dollars ($100) which shall entitle the applicant to three examinations.

(4) Be 18 years of age or older.

(5) Have worked for an established licensed California driving school as a driving instructor for a period of not less than 1,000 hours of actual behind-the-wheel teaching and, on and after July 1, 1973, have satisfactorily completed a course in the teaching of driver education and driver training acceptable to the department, except that the operator, including an owner who is also the operator, of a driving school which exclusively teaches motorcycle riding may, in lieu of the behind-the-wheel teaching requirement, have worked for an established licensed California driving school as a motorcycle driving instructor for a period of not less than 300 hours of actual motorcycle range and street teaching or have taught 300 hours of actual motorcycle range and street instruction under the guidance of the Motorcycle Safety Foundation or have given comparable training instruction which is acceptable to the department. This paragraph does not apply to any person who is certified by the Department of Education as fully qualified to teach driver education and driver training and has taught those subjects in the public school system for a period of not less than 1,000 hours.

(b) The qualifying requirements referred to in this section shall

be met within one year from the date of application for a license, or a new application, examination, and fee shall be required.

SEC. 4. Section 11104 of the Vehicle Code is amended to read:

11104. Every person in order to qualify as a driving instructor, as defined in Section 310.4, shall meet the following requirements:

(a) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or another substantially, or to injure another substantially; or has not committed any act which, if done as a licensed driving instructor, would be grounds for the suspension or revocation of his or her license. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section.

(b) On and after July 1, 1973, have a high school education or its equivalent and have satisfactorily completed a course in the teaching of driver education and driver training acceptable to the department.

(c) Within three attempts, pass such examination as the department shall require on traffic laws, safe driving practices, operation of motor vehicles and teaching methods and techniques.

(d) Be physically able to safely operate a motor vehicle and to train others in the operation of motor vehicles.

(e) Hold a valid California driver's license in a class appropriate for the type of vehicle in which instruction will be given.

(f) Not be on probation to the department as a negligent operator.

(g) Have a driver record which does not have an outstanding notice for violating a written promise to appear in court or for willfully failing to pay a lawfully imposed fine, as provided in Section 40509.

(h) Be 18 years of age or older.

(i) The qualifying requirements referred to in this section shall be met within one year from the date of application for a license, or a new application, examination, and fee shall be required.

SEC. 5. Section 11105 of the Vehicle Code is amended to read:

11105. (a) The department shall issue a license certificate to each driving school owner and to each driving school operator when it is satisfied that the owner has met the qualifications required under this chapter. The license shall be for a period of one year from midnight of the last day of the month of issuance unless canceled, suspended, or revoked by the department.

(b) The license shall be renewed annually. The department shall require all of the following for the renewal of the license:

(1) Compliance with the provisions of Sections 11102 and 11105.2 for renewal of a driving school owner's license or Section 11102.5, except paragraph (2) of subdivision (a) of Section 11102.5, for renewal of a driving school operator's license.

(2) Satisfactory completion of an examination as provided in Section 11102.5 at least once during each succeeding three-year period after the initial issuance of a license certificate.

In lieu of any examination for renewal of the license, the

department may accept submission by the licensee of evidence of continuing professional education. Professional education, as used in this subdivision, means satisfactory completion of courses related to traffic safety, teaching techniques, or the teaching of driver instruction acceptable to the department or participation in professional seminars approved by the department.

(c) The department may issue a probationary license and certificate subject to conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license or certificate but shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

(d) Upon notification of death of a driving school licensee the department may issue a certificate of convenience to the executor, executrix, administrator or administratrix of the estate of a deceased holder of a validly outstanding certificate to conduct a driving school, or if no executor, executrix, administrator or administratrix has been appointed, and until a certified copy of an order making such appointment is filed with the department, to the surviving spouse or other heir otherwise entitled to conduct the business of the deceased, permitting such person to conduct the driving school for a period of one year from and after the date of death, and necessary one-year renewals thereafter pending, but not later than, disposal of the business and qualification of the vendee of the business or such surviving spouse or heir for a license certificate to conduct a driving school under the provisions of this division. The department may restrict or condition the certificate and attach to the exercise of the privilege thereunder such terms and conditions as in its judgment the protection of the public requires.

SEC. 6. Section 11105.1 of the Vehicle Code is amended to read:

11105.1. (a) The department shall issue a license certificate to each driving school instructor when it is satisfied that he has met the qualifications required under this chapter. The original driving school instructor license and any driving school instructor license renewed pursuant to subdivisions (b) and (c) shall expire on the third birth date of the applicant following the date of application unless canceled, suspended, or revoked by the department.

(b) Every application for the renewal of a driving school instructor license shall be made by the licensee 30 days, or more, prior to the expiration date of the license and by presenting the application form provided by the department.

The department shall require all of the following for the renewal of the license:

(1) Compliance with Section 11104, except subdivision (c) thereof, and with 11105.2.

(2) Satisfactory completion of an examination as provided in

Section 11104 at least once during each succeeding three-year period after the initial issuance of a license certificate.

In lieu of any examination for renewal of the license, the department may accept submission by the licensee of evidence of continuing professional education as defined in paragraph (2) of subdivision (b) of Section 11105.

(c) The department may issue a probationary license and certificate subject to conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license or certificate but shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

SEC. 7. Section 11105.2 of the Vehicle Code is repealed.

SEC. 8. Section 11105.2 is added to the Vehicle Code, to read:

11105.2. (a) The fee for a license issued to a driving school owner shall be as follows:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred fifty dollars ($150).

(2) For the annual renewal of a license, a fee of fifty dollars ($50).

(3) If an alteration of an existing license is caused by a firm name change, a change in corporate officer structure, address change, or the addition of a branch location, a fee of seventy dollars ($70).

(4) For replacement of the license when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(b) The fee for a license issued to a driving school operator shall be as follows:

(1) For the original license a nonrefundable fee of one hundred dollars ($100).

(2) For the annual renewal of a license, a fee of one hundred dollars ($100).

(3) If an alteration of an existing license is caused by a change in school name or location, or the addition of a branch location, a fee of fifteen dollars ($15).

(4) For replacement of the license when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(c) The fee for a license issued to a driving school instructor shall be as follows:

(1) For the original license, except as provided by Section 42231, a nonrefundable fee of thirty dollars ($30).

(2) For the triennial renewal of a license, a fee of thirty dollars ($30).

(3) If an alteration of an existing license is caused by a change in the instructor's employing school's name or location, or transfer of the instructor's license to another employing driving school, a fee of fifteen dollars ($15).

(4) For the replacement of the instructor's license when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

SEC. 9. Section 11110 of the Vehicle Code is amended to read:

11110. The department, after notice and hearing, may suspend or revoke any license issued under the provisions of this chapter:

(a) Whenever the department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this chapter.

(b) Whenever the licensee fails to keep the records required by this chapter.

(c) Whenever the licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license.

(d) Whenever the holder fails to comply with any provisions of this chapter or any of the regulations or requirements of the department made pursuant thereto.

(e) Whenever the licensee represents himself or herself as an agent or employee of the department or uses advertising designed to create the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or whenever the licensee advertises in any manner or means whatever any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(f) Whenever the licensee or any employee or agent of such licensee solicits driver training or instruction in an office of the department or within 200 feet of any such office.

(g) Whenever the licensee is convicted of violating Section 14606, 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or Section 192 of the Penal Code. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section.

(h) Whenever the licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. The department, in proceeding pursuant to this subdivision, shall conform its procedures to the provisions of Division 1.5 (commencing with Section 475) of the Business and Professions Code. Whenever disability or unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation, the referee, hearing officer, or board shall make a specific finding as to the manner in which the action or conduct manifests disability or unfitness, which finding shall be incorporated in the order suspending or revoking the license.

(i) Whenever contrary to provisions of this code or of regulations established by the department, the licensee teaches or permits a

student to be taught the specific tests administered by the department through use of the department's forms or testing facilities.

(j) Whenever the licensee conducts driver training, or permits driver training by any employee, in an unsafe manner or contrary to safe driving practices.

(k) Whenever the driving school owner or driving school operator teaches or permits an employee to teach driving instruction without a valid driving instructor's license.

(*l*) Whenever a driving school owner does not have in effect a bond as provided in Section 11102.

SEC. 10. Section 11508 of the Vehicle Code is amended to read:

11508. (a) Every occupational license and special plate issued under this chapter shall be valid for a period of one year from midnight of the last day of the month of issuance. Renewal of the occupational license and special plates for the ensuing year may be obtained by the person to whom any plates and license were issued upon application to the department and payment of the fee provided in this code.

(b) Except as provided in subdivision (c), every application for the renewal of an occupational license and special plates which expire pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the completed application form provided by the department and by payment of the full annual renewal fee for the occupational license and special plates.

(c) If the application for renewal of the occupational license and special plates is not made by midnight of the expiration date, the application may be made within 30 days following expiration of the license by paying the annual renewal fee and a penalty fee equal to the amount of the original application fee for each occupational license held. A penalty as specified in Sections 9553 and 9554 shall also be added to each special plate renewed during the 30-day period following expiration of the special plates.

(d) In no event may the licensee renew the occupational license or special plates after the expiration of the 30-day period authorized in subdivision (c).

SEC. 11. Section 11620 of the Vehicle Code is amended to read:

11620. (a) Every occupational license issued under this chapter shall be valid for a period of one year from midnight of the last day of the month of issuance. Except as provided in subdivision (c), renewal of an occupational license for the ensuing year may be obtained by the person to whom the occupational license was issued upon application to the department and payment of the fee provided in this code.

(b) Every application for the renewal of an occupational license which expires pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the completed application form

provided by the department and by payment of the full annual renewal fee for the occupational license.

(c) If the application for renewal of the occupational license is not made by midnight of the expiration date, the application may be made within 30 days following expiration of the license by paying the annual renewal fee and a penalty fee equal to the amount of the original application fee for each occupational license held.

(d) In no event may the licensee renew the occupational license after the expiration of the 30-day period authorized in subdivision (c).

SEC. 12. Section 11717 of the Vehicle Code is amended to read:

11717. (a) Every occupational license and special plate issued under this article shall be valid for a period of one year from midnight of the last day of the month of issuance. Except as provided in subdivision (c), renewal of the occupational license and special plates for the ensuing year may be obtained by the person to whom the occupational license and special plates were issued upon application to the department and payment of the fee provided in this code.

(b) Every application for the renewal of an occupational license and special plates which expire pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the completed application form provided by the department and by payment of the full annual renewal fee for the occupational license and special plates.

(c) If the application for renewal of the occupational license and special plates is not made by midnight of the expiration date, the application may be made within 30 days following expiration of the license by paying the annual renewal fee and a penalty fee equal to the amount of the original application fee for each occupational license held. A penalty as specified in Sections 9553 and 9554 shall also be added to each special plate renewed during the 30-day period following expiration of the special plates.

(d) In no event may the licensee renew the occupational license or special plates after the expiration of the 30-day period authorized in subdivision (c).

SEC. 13. Section 11822 of the Vehicle Code is amended to read:

11822. The vehicle salesperson's license or any permit provided in this article shall be automatically canceled upon the failure of a licensee to pay the required fees or to file an application for renewal of the license or permit before the date of expiration of the current license or permit.

CHAPTER 500

An act to amend Section 4465.3 of the Penal Code, and to amend Section 3 of Assembly Bill No. 3805 of the 1983–84 Regular Session of the Legislature, relating to county jails, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 4465.3 of the Penal Code, as added by Assembly Bill No. 2357, of the 1983–84 Regular Session of the Legislature, is amended to read:

4465.3. Money in the fund shall be allocated in accordance with the provisions of Assembly Bill No. 3805 of the 1983–84 Regular Session of the Legislature.

SEC. 2. The Legislature hereby appropriates money in the County Jail Capital Expenditure Fund, established by Section 4462 of the Penal Code, to the Board of Corrections for allocation as provided by Assembly Bill 3805 of the 1983–84 Regular Session of the Legislature, and directs the Board of Corrections to allocate all money in the County Jail Capital Expenditure Fund established by Section 4412 of the Penal Code and appropriated by the Budget Act of 1984 as provided by Assembly Bill 3805 of the 1983–84 Regular Session of the Legislature.

SEC. 3. Section 3 of Assembly Bill No. 3805 of the 1983–84 Regular Session of the Legislature is amended to read:

SEC. 3. Pursuant to its authority to examine factors for the distribution of proceeds of bonds authorized by the County Jail Capital Expenditure Bond Act of 1981 (Title 4.5 (commencing with Section 4400) of Part 3 of the Penal Code) as set forth in Section 4415 of the Penal Code, and pursuant to its authority to establish criteria for the availability of funds pursuant to the County Jail Capital Expenditure Bond Act of 1984 (Title 4.5 (commencing with Section 4450) of Part 3, Penal Code) as set forth in Section 4465 of the Penal Code, the Legislature establishes the following criteria for the allocation of funds in the County Jail Capital Expenditure Fund established by Section 4412 of the Penal Code and the County Jail Capital Expenditure Fund established by Section 4462 of the Penal Code:

(a) Counties shall be required to pay 25 percent of the cost of projects. However if the Department of Finance certifies that savings will result to the state as a result of the county not receiving its full allocation as authorized by subdivision (d) because of the county lowering its entitlement, the Department of Finance may waive all or a portion of the requirement that the county comply

with the 25 percent matching fund requirement, on those terms as the Department of Finance may deem appropriate.

For the purposes of this section, "allowable cost" shall mean those reasonable and necessary costs attendant to the construction of local jails, as may be defined by regulation by the Board of Corrections, but shall not include costs for projects or items set forth in subdivision (c) of Section 512 of Title 15 of the California Administrative Code, as it may be amended from time to time.

(b) The Board of Corrections shall enter into contracts for funding of approved projects when the county is ready to proceed with construction. The county shall be deemed ready to proceed when it has done all of the following:

(1) Filed a final notice of determination on its environmental impact report.

(2) Certified that the county owns or has assured long-term possession of the site for the construction project.

(3) Received approval by the Board of Corrections and any other public agency with legally required approval responsibilities of the plans, specifications, and working drawings for the facility to be constructed or renovated.

(4) Received construction bids from contractors.

Construction shall be initiated within a reasonable time after the receipt of bids, or the contract between the State of California and the county shall become void. The Board of Corrections shall by regulation, define what shall be a reasonable time for this purpose.

The Board of Corrections shall not enter into contracts for amounts which would, if encumbered, exceed the balance remaining in both County Jail Capital Expenditure Funds established by Sections 4412 and 4462 of the Penal Code.

A county that engages in a fast track construction procedure, as determined by the Board of Corrections, shall receive contractual commitment for full project funding when it initially meets the project readiness provisions of this subdivision.

(c) The following projects shall be entitled to be funded in an amount not less than the amount set forth in this subdivision:

(1) The 28 county projects for which the Board of Corrections in its allocation of February 16, 1984, pursuant to the County Jail Capital Expenditure Bond Act of 1981, approved an allocation of one million dollars ($1,000,000) or less for each county shall be entitled to the approved allocation.

(2) For the counties specified in this paragraph, the Board of Corrections shall determine for each county which project is the first priority project for the county based upon projects submitted by those counties to the board in 1983. However, all projects submitted by a county of the tenth class shall be deemed a first priority project. Each of the following counties shall be entitled to the following allocation for its first priority project:

Alameda $84,100,000

Los Angeles	96,000,000
El Dorado	11,200,000
Fresno	26,500,000
Merced	3,800,000
Riverside	29,500,000
San Mateo	8,500,000
San Diego	19,200,000
Kings	1,700,000
Kern	23,900,000

(3) Each of the following counties shall be entitled to the following allocation for the project submitted by it to the Board of Corrections in 1983:

Contra Costa	$36,600,000
Madera	8,513,000
Orange	50,200,000
Sacramento	62,025,000
Santa Clara	46,027,000
Solano	19,700,000
Tulare	17,100,000
Ventura	5,500,000
Yolo	9,893,000

(4) Funding for San Bernardino County, Lassen County, and Lake County shall be determined by the Board of Corrections after the respective county has submitted its application for its first priority project and after the county's application has been examined using the same guidelines applied to the applications of counties listed in paragraphs (1), (2), and (3). San Bernardino shall be authorized to receive an allocation of fifteen million dollars ($15,000,000) for a project approved upon approval by the board.

(d) In addition to the allocations required by subdivision (c), the Board of Corrections is authorized to make additional allocations to counties where the allocations would not result in funds being unavailable for allocations required by subdivision (c), subject to the requirements of subdivision (f), but in no case shall the total allocation exceed the following amounts:

(1) Large County Projects	$659,497,000
Alameda	$84,100,000
Contra Costa	36,600,000
El Dorado	17,500,000
Fresno	28,200,000
Kern	26,500,000
Kings	2,400,000
Los Angeles	148,800,000
Madera	8,513,000

Merced	4,200,000	
Orange	50,200,000	
Riverside	31,542,000	
Sacramento	62,025,000	
San Bernardino	30,000,000	
San Diego	22,500,000	
San Mateo	8,200,000	
Santa Clara	46,027,000	
Solano	19,700,000	
Tulare	17,100,000	
Ventura	5,500,000	
Yolo	9,893,000	
(2) Small County Projects		$29,096,150
Butte	$1,085,300	
Calaveras	283,383	
Del Norte	125,000	
Glenn	1,670,011	
Humboldt	655,683	
Inyo	1,003,500	
Marin	857,886	
Mariposa	250,708	
Mendocino	1,875,000	
Mono	1,209,241	
Monterey	959,475	
Napa	1,003,500	
Nevada	900,150	
Sierra	125,587	
Placer	736,275	
Plumas	900,000	
San Benito	100,500	
San Francisco	1,590,075	
San Joaquin	2,187,545	
San Luis Obispo	696,973	
Santa Barbara	1,500,000	
Santa Cruz	488,250	
Siskiyou	2,181,750	
Sonoma	4,500,000	
Stanislaus	933,000	
Tuolumne	922,125	
Yuba	355,233	
(3) Other county projects to be disbursed pursuant to rules and regulations established by the Board of Corrections to counties which made small project applications under the County Jail Capital Expenditure Bond Act of 1981 and to a county of the 43rd class		$19,200,000
(4) Costs for the sale of the bonds and the administrative costs of the		

Board of Corrections and the Department of Finance, subject to annual Budget Act appropriations	$3,489,338

(e) The Board of Corrections shall establish by rule or regulation a procedure for determining whether a project submitted to the board in 1983 but not specified in subdivision (c) may be authorized. That procedure shall take into account any undue hardship or operational difficulties that the county would encounter if those limits are imposed. However, a county shall not receive an allocation in excess of that specified in subdivision (d).

(f) (1) Forty million dollars ($40,000,000) in earned interest on proceeds from the sale of bonds shall be allocated for the funding of projects specified in subdivision (c) or authorized by the Board of Corrections pursuant to subdivision (e).

Any earnings in excess of this amount and any future bond issues for jail construction, or other fund sources that shall become available, shall be allocated first to Los Angeles County to a maximum of twenty-nine million dollars ($29,000,000), and then a maximum of nine million dollars ($9,000,000) to augment small county projects described in paragraph (1) of subdivision (c) for those counties that were not funded for 75 percent of project cost in the allocations of the Board of Corrections in February of 1984.

Available funds in excess of that described above shall be distributed for counties' projects, up to the maximum specified in subdivision (d), under a system proposed by the Board of Corrections and adopted by the Legislature.

(g) The Board of Corrections shall confer with the Department of Finance which shall review the board's fiscal and contract regulations governing actual distribution of and control of projects once the projects are funded. These regulations shall address, among other questions and issues, eligible cost issues, questions of matching funds to be furnished by the counties, and contract management regulations. The board and the department shall endeavor to agree on rules and guidelines to be used, and the eventual board rules and guidelines shall be determined by the board after negotiations with counties.

(h) The Board of Corrections shall provide funding at the earliest opportunity to Sacramento and other counties that are ready to proceed with construction.

SEC. 4. This act shall become operative only if Assembly Bill No. 2357 and Assembly Bill No. 3805 are both chaptered and become operative and this bill is chaptered after both of those bills.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately provide for the proper allocation of funds under the County Jail Capital Expenditure Bond Acts, it is necessary for this act to take effect immediately.

CHAPTER 501

An act to add Sections 69521, 69534.8, and 69776.5 to the Education Code, relating to the Student Aid Commission.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 69521 is added to the Education Code, to read:

69521. By January 1 of each year, the commission shall report to the fiscal committees of the Legislature regarding contracts made pursuant to Sections 69534.8 and 69776.5 and regarding the status of those contracts.

SEC. 2. Section 69534.8 is added to the Education Code, to read:

69534.8. The Student Aid Commission may enter into contracts with a public agency or a private entity to improve the processing and distribution of grants and fellowships through the use of electronic networks and unified data bases.

SEC. 3. Section 69776.5 is added to the Education Code, to read:

69776.5. The commission may enter into contracts with a public agency or a private entity to improve the processing and distribution of guaranteed student loan applications through the use of electronic networks and unified data bases.

CHAPTER 502

An act to amend Sections 1180.2, 1182.1 and 1182.2 of the Health and Safety Code, relating to health services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1180.2 of the Health and Safety Code is amended to read:

1180.2. (a) The state department shall develop a statewide plan for health services for special population groups identified pursuant to subdivision (b) of Section 1180.7 by January 1, 1985, and shall

evaluate and update the plan every two years. The plan shall include, but not be limited to, an assessment of resources, an assessment of unmet needs, an evalution of prior years program goals and objectives, and a two-year action plan for at least the following program areas:

(1) Health of seasonal agricultural and migratory workers and their families.

(2) American Indian health services.

(3) Rural health services.

(4) California health services corps.

(5) Grants-in-aid to clinics.

(b) The plan shall describe the types, locations, and effectiveness of the programs specified in paragraphs (1) to (5), inclusive, and contain an assessment of resources needed to maintain the plan consistent with this part.

(c) The plan may be a consolidation of individual program reports due to the Legislature during the year the plan is updated. The plan may also be integrated with other plans the department is required to develop concerning maternal and child health programs and services for special population groups.

(d) The statewide plan shall be initially developed in consultation with the Primary Care Clinics Advisory Committee and the California Conference of Local Health Officers and biannually updated as provided in this section in consultation with individuals and groups representing special populations and areas, with local governments, and with the Office of Statewide Health Planning and Development.

SEC. 2. Section 1182.1 of the Health and Safety Code is amended to read:

1182.1. The state department shall cooperate with local governmental agencies and contract with voluntary nonprofit organizations in connection with the development of local health programs for American Indians and their families.

SEC. 3. Section 1182.2 of the Health and Safety Code is amended to read:

1182.2. (a) All moneys appropriated to the state department for the purposes of this chapter shall be used to provide financial, training, and technical assistance to urban and rural American Indian health programs and to assist these programs in planning, implementing, and upgrading programs to attain a comprehensive health services delivery system for American Indians in urban and rural areas.

(b) The state department shall provide technical assistance and shall promote the provision of services for preventive health care, health education, and environmental health.

(c) The state department may expend funds, appropriated to it to carry out the purposes of this chapter, by contract or grant, or any combination thereof, to assist any urban or rural American Indian health program.

(d) The state department shall adopt rules and regulations establishing criteria for reimbursement for direct services under this chapter, which shall include, but not be limited to, a definition of direct services which are reimbursable and a formula for allocation of funds appropriated to the state department.

(e) The state department shall provide assistance to American Indian health services programs in maximizing utilization of third party payment systems and in developing programs in health education, nutrition, and family planning, if such assistance is not being provided by agencies of the federal government.

(f) Funds appropriated to carry out the purposes of this chapter shall be supplemental to those available from the federal government and shall not duplicate, and they shall not replace, any commitments made by the federal government to provide health services to American Indians and their families in this state who receive health services pursuant to an urban or rural American Indian health program.

(g) It is the intent of the Legislature that the program established by this chapter shall, commencing with the 1984–85 fiscal year, be funded according to customary budget procedures.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to fund American Indian clinics who were under contract with the State Department of Health Services and providing services prior to the effective date of this act and in order to extend the July 1, 1984, deadline for the department to develop a statewide plan for health services for special population groups, it is necessary that this act take immediate effect.

CHAPTER 503

An act to add Section 37085.5 to the Education Code, relating to junior high schools.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984]

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

SECTION 1. Section 37085.5 is added to the Education Code, to read:

37085.5. If a school district withdraws from a junior high school system pursuant to a vote in favor of withdrawal pursuant to Section 37085, there shall not be an election to reverse that action for at least three complete school years following the date the withdrawal occurs.

CHAPTER 504

An act to amend Section 65961 of the Government Code, relating to subdivisions.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 65961 of the Government Code is amended to read:

65961. Notwithstanding any other provision of law, upon approval or conditional approval of a tentative map for a subdivision of single- or multiple-family residential units, or upon recordation of a parcel map for such a subdivision for which no tentative map was required, during the five year period following recordation of the final map or parcel map for the subdivision, a city, county, or city and county shall not require as a condition to the issuance of any building permit or equivalent permit for such single- or multiple-family residential units, conformance with or the performance of any conditions that the city or county could have lawfully imposed as a condition to the previously approved tentative or parcel map. Nor shall a city, county, or city and county withhold or refuse to issue a building permit or equivalent permit for failure to conform with or perform any conditions that the city, county, or city and county could have lawfully imposed as a condition to the previously approved tentative or parcel map. However, the provisions of this section shall not prohibit a city, county, or city and county from doing any of the following:

(a) Imposing conditions or requirements upon the issuance of a building permit or equivalent permit which could have been lawfully imposed as a condition to the approval of a tentative or parcel map if the local agency finds it necessary to impose the condition or requirement for any of the following reasons:

(1) A failure to do so would place the residents of the subdivision or of the immediate community, or both, in a condition perilous to their health or safety, or both.

(2) The condition is required in order to comply with state or federal law.

(b) Withholding or refusing to issue a building permit or equivalent permit if the local agency finds it is required to do so in order to comply with state or federal law.

(c) Assuring compliance with the applicable zoning ordinance.

(d) This section shall also apply to a city or city and county which incorporates on or after January 1, 1985, and which includes within its boundaries any areas included in the tentative or parcel map described in this section.

When the incorporation includes areas included in the tentative or

parcel map described in this section, "a condition that the city could have lawfully imposed as a condition to the previously approved tentative or parcel map," as used in this section, refers to conditions the county could have imposed had there been no incorporation.

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

CHAPTER 505

An act to amend Section 44940 of the Education Code, relating to certificated employees.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 44940 of the Education Code is amended to read:

44940. Whenever any certificated employee of a school district is charged with the commission of any sex offense, as defined in Section 44010, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district shall immediately place the employee upon compulsory leave of absence for a period of time extending for not more than 10 days after the date of the entry of the judgment in the proceedings. The employee's teaching or service credential shall be automatically suspended for the same period of time. The governing board of the school district may extend the compulsory leave of absence of the employee beyond this period by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his or her regular salary during the period of his or her compulsory leave of absence if and during such time as he or she furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him or her during the period of the compulsory leave of absence in case the employee is convicted of the charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against the employee are dismissed, the school district shall reimburse the employee for the cost of the bond upon his or her return to service in the school district.

If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him or her are dismissed, the school district shall pay to the employee his or her full compensation for the period of the compulsory leave of absence upon his or her return to service in the school district.

Whenever any certificated employee of a school district is charged with the commission of any narcotics offense as defined in Section 44011, or a violation or attempted violation of Section 187 of the Penal Code, Sections 11357 to 11361, inclusive, 11363, 11364, or 11377 to 11382, inclusive, insofar as these sections relate to any controlled substances in paragraph (4) or (5) of subdivision (b) of Section 11056, or any controlled substances in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of that subdivision, of the Health and Safety Code, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section.

Any action taken pursuant to this section by a governing board shall be reported immediately to the Commission for Teacher Preparation and Licensing. The commission shall give priority to the investigation and resolution of these cases.

CHAPTER 506

An act relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. The Legislature hereby finds and declares that:

(a) The boll weevil is a voracious pest which eats cotton bolls causing major economic loss.

(b) An infestation of the weevil was found in parts of Imperial, Riverside, and San Bernardino Counties in 1982 and the infestation has expanded in spite of an all-out effort by the state's cotton growers and the Department of Food and Agriculture.

(c) The spread of this pest would be detrimental to the state causing serious commercial damage to our $1.2 billion cotton crop.

SEC. 2. The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture for reimbursement of activities required to control and eradicate the boll weevil in Imperial, Riverside, and San Bernardino Counties.

SEC. 3. In addition to the funds appropriated pursuant to Section 2 of this act, the Department of Food and Agriculture shall also expend up to eight hundred thousand dollars ($800,000) of the funds generated pursuant to Section 6005 of the Food and Agricultural Code for reimbursement of activities required to control and eradicate the boll weevil in Imperial, Riverside, and San Bernardino Counties.

SEC. 4. The funds expended for control and eradication of the boll weevil shall be drawn equally from the funds appropriated pursuant to Section 2 of this act and the funds expended pursuant to Section 3 of this act.

SEC. 5. The Legislature recognizes the extraordinary effort already made, in an equal partnership, by the state under the Department of Food and Agriculture and the state's cotton growers to eradicate the boll weevil and acknowledges that serious cash-flow problems may develop in the 1984–85 fiscal year.

SEC. 6. This act is an urgency statute necessary for the preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The boll weevil is a serious pest which threatens the cotton industry. In order to prevent economic loss to the industry and to the general economy of the State of California, it is necessary that this act take effect immediately.

CHAPTER 507

An act to amend Section 6328 of the Labor Code, relating to occupational safety and health.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 6328 of the Labor Code is amended to read:

6328. The division shall prepare a notice containing pertinent information regarding safety rules and regulations. The notice shall contain the address and telephone number of the nearest division office; a clear explanation of an employee's right to report any unsafe working conditions; the right to request a safety inspection by the division for unsafe conditions; the right to refuse to work under conditions which endanger his life or health; the right to receive information under the Hazardous Substances Information and Training Act (Ch. 2.5 (commencing with Section 6360)); posting and notice requirements of employers and the division; and any other information the division deems necessary. It shall be supplied to employers as soon as practical. The division shall promulgate

regulations on the content and the required location and number of notices which must be posted by employers. Sufficient posters in both English and Spanish shall be printed to supply employers in this state.

CHAPTER 508

An act to amend Section 42001 of the Vehicle Code, relating to traffic offenses

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 42001 of the Vehicle Code, as amended by Section 2 of Chapter 69 of the Statutes of 1984, is amended to read:

42001. (a) Except as provided in Section 42001.1, 42001.3, 42001.5, 42001.7, or 42001.9, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, or Section 2800.1, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

SEC. 2. Section 42001 of the Vehicle Code, as amended by Section 2 of Chapter 69 of the Statutes of 1984, is amended to read:

42001. (a) Except as provided in Section 42001.1, 42001.3,

42001.5, 42001.7, or 42001.9, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

SEC. 3. Section 2 of this bill incorporates amendments to Section 42001 of the Vehicle Code proposed by both this bill and AB 2877. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 42001 of the Vehicle Code, and (3) this bill is enacted after AB 2877, in which case Section 1 of this bill shall not become operative.

CHAPTER 509

An act to add Sections 12749.5, 12749.6, and 12749.7 to the Water Code, relating to flood protection.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 12749.5 is added to the Water Code, to read:

12749.5. The project for flood protection on the San Luis Rey River in San Diego County is adopted and authorized substantially in accordance with the recommendations of the Secretary of the

Army and the Chief of Engineers in Senate Document Numbered 91-106, 91st Congress, Second Session, as authorized by the Senate Committee on Public Works Resolution adopted December 17, 1970, and the House Committee on Public Works and Transportation Resolution adopted December 15, 1970, pursuant to the provisions of Section 201 of Public Law 89-298, 89th Congress (79 Stat. 1073) at an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature upon the recommendation and advice of the department. The department may pay 50 percent of the nonfederal capital costs of the recreation and fish and wildlife enhancement features of the project.

SEC. 2. Section 12749.6 is added to the Water Code, to read:

12749.6. The City of Oceanside shall give assurances satisfactory to the Secretary of the Army that the local cooperation, required by Senate Document Numbered 91-106, 91st Congress, Second Session, will be furnished by the city in connection with the project for flood control adopted and authorized in Section 12749.5.

SEC. 3. Section 12749.7 is added to the Water Code, to read:

12749.7. The City of Oceanside, in conjunction with the Department of the Army, shall execute the plans and project referred to in Section 12749.5 and may make modifications and amendments to the plan as may be necessary to execute them for the purpose of Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639).

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code, because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 510

An act to amend Section 22511.5 of, and to add Section 22511.6 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or

who is so severely disabled as to be unable to move without the aid of an assistant device.

(2) Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (pO_2) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) Disabled persons shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section shall not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) (1) Any disabled person, or vehicle owner as provided in subdivision (c), may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards, which provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department.

(2) The Department of Motor Vehicles may establish procedures for the issuance and renewal of the placards. The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance and renewal of placards. Placards issued or renewed pursuant to this subdivision shall be valid for a period of two years, unless sooner canceled or revoked pursuant to this subdivision or Section 22511.6.

(3) No disabled person shall be eligible for more than one placard

at any time. Organizations and agencies involved in the transportation of disabled persons may apply for a placard for each vehicle used for the purpose of transporting disabled persons.

(4) Effective April 1, 1985, all disabled person placards issued prior to January 1, 1985, are hereby canceled. The Department of Motor Vehicles shall reissue those placards pursuant to this subdivision and may charge a fee sufficient to cover its actual costs for that reissuance.

(e) Prior to issuing a disabled person plate or placard, the Department of Motor Vehicles may require a certificate, signed by a licensed physician or surgeon. The blindness of any person applying shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(f) A person who is temporarily disabled for a period of less than one year, may apply for a placard as prescribed in subdivision (d).

(g) Disabled persons shall be allowed to park a vehicle displaying a distinguishing disabled person or disabled veteran license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled person or disabled veteran license plate or placard by the Department of Motor Vehicles.

SEC. 2. Section 22511.6 is added to the Vehicle Code, to read:

22511.6. (a) The department may cancel or revoke a disabled person placard issued pursuant to subdivision (d) of Section 22511.5 in any of the following cases:

(1) When the department is satisfied that the placard was fraudulently obtained or erroneously issued.

(2) When the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

(3) When grounds exist that would justify denial of the issuance or renewal of the placard.

(4) When the department determines that the owner has committed any offense described in Section 4461 or 4463 involving the placard to be canceled or revoked.

(b) Whenever the department cancels or revokes a disabled person placard, the owner or person in possession shall immediately return the placard to the department.

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

CHAPTER 511

An act to amend Section 17409 of the Financial Code, relating to escrow agents, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 17409 of the Financial Code is amended to read:

17409. All moneys deposited in escrow to be delivered upon the close of the escrow or upon any other contingency, shall be deposited and maintained in a noninterest-bearing demand or checking account in a bank, a state or federal savings bank, or a state or federal savings and loan association. Thereafter, these moneys may be deposited in an interest-bearing account in a bank, a state or federal savings bank, a state or federal savings and loan association, or a state or federal credit union, if the depositor is qualified for membership under the bylaws of that credit union, and the moneys are kept separate, distinct, and apart from funds belonging to the escrow agent. All such funds, when deposited, are to be designated as "trust funds," "escrow accounts," or under some other appropriate name indicating that the funds are not the funds of the escrow agent.

Upon request of the commissioner, a licensee shall furnish to the commissioner an authorization for examination of financial records of any such trust funds or escrow accounts, maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

SEC. 2. This act shall become operative on July 1, 1984. The commissioner shall adopt changes in the regulations under the Escrow Law, by emergency procedure, to interpret, implement, and make specific the provisions of this act. The changes in the regulations shall become operative on July 15, 1984.

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

Section 17409 of the Financial Code has received a variety of interpretations by regulatory agencies, citizens and corporations of this state as it relates to the deposit of escrow funds. California citizens, escrow companies, and depository institutions will be aided in the provision of certainty and consistency as to the treatment of deposits of home or business owner funds into escrow when real property is being purchased in California. To foster the security and peace of mind of California citizens placing these deposits in escrow accounts, it is essential that this act take effect immediately.

CHAPTER 512

An act to amend Sections 75.41, 75.52, 6072, 6094.5, 8608, 8701, and 8877 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 75.41 of the Revenue and Taxation Code is amended to read:

75.41. (a) The auditor shall apply the current year's tax rate to the supplemental assessment, computing the amount of taxes that would be due for a full year. For property on the secured roll, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the presumed date specified in subdivision (b) is April 1, the taxes on the supplemental assessment for the current roll shall be multiplied by .25; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(2) If the presumed date specified in subdivision (b) is May 1, the taxes on the supplemental assessment for the current roll shall be multiplied by .17; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(3) If the presumed date specified in subdivision (b) is June 1, the taxes on the supplemental assessment for the current roll shall be multiplied by .08; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(4) If the presumed date specified in subdivision (b) is July 1, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(5) If the presumed date specified in subdivision (b) is on or after August 1, and on or before March 1, the following table of factors shall be used:

If the presumed date is:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
August 1	.92
September 1	.83

October 1	.75
November 1	.67
December 1	.58
January 1	.50
February 1	.42
March 1	.33

(d) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee is entitled.

SEC. 2. Section 75.52 of the Revenue and Taxation Code is amended to read:

75.52. Taxes on the supplemental bill are due on the date mailed and shall become delinquent as follows:

(a) If the bill is mailed within the months of July through October, the first installment shall become delinquent on December 10 of the same year. The second installment shall become delinquent on April 10 of the next year.

(b) If the bill is mailed within the months of November through June, the first installment shall become delinquent on the last day of the month following the month in which the bill is mailed. The second installment shall become delinquent on the last day of the fourth calendar month following the date the first installment is delinquent.

SEC. 3. Section 6072 of the Revenue and Taxation Code is amended to read:

6072. A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his permit to the board for cancellation. The board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.

Any person who knowingly issues a resale certificate while the person is not actively engaged in business as a seller, for personal gain or to evade the payment of taxes, shall be liable for the taxes that would otherwise have been due on the transaction, plus a penalty of 10 percent or five hundred dollars ($500), whichever is greater, in addition to all other penalties imposed by this part, and interest at the adjusted annual rate established pursuant to Section 19269 from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 4. Section 6094.5 of the Revenue and Taxation Code is amended to read:

6094.5. Except as provided in Sections 6012.8 and 6012.9:

(a) Any person who gives a resale certificate for property which he or she knows at the time of purchase is not to be resold by him or her in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the

transaction is guilty of a misdemeanor.

(b) Any person who gives a resale certificate for property which he or she knows at the time of purchase is not to be resold by him or her in the regular course of business is liable to the state for the amount of tax that would be due if he or she had not given the resale certificate. In addition to the tax, the person shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500), whichever is greater, for each purchase made for personal gain or to evade the payment of taxes.

SEC. 5. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

The provisions of Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle, or the propulsion of a commercial vehicle with unladen weight of less than 7,000 pounds; or for the propulsion of a privately operated two-axle truck which the user has rented or leased for a period of 30 days or less; provided, that the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.

SEC. 6. Section 8701 of the Revenue and Taxation Code is amended to read:

8701. (a) Every person desiring to become a user of fuel within this state shall secure a use fuel tax permit.

(b) The board shall assess a penalty of five hundred dollars ($500) against any person who violates subdivision (a) by using fuel without a currently valid use fuel tax permit. The penalty shall be a lien against the vehicle using fuel in violation of this section, and the board or its authorized representatives may impound the vehicle until the penalty and all costs incurred in connection with the impounding or storage have been paid.

(c) Commencing January 1, 1984, the penalty provided for in subdivision (b) shall not apply to any person applying for a use fuel tax permit not later than either of the following dates, whichever occurs later:

(1) For users operating vehicles registered in California, the first expiration date of the California registration year of any motor vehicle of the user using fuel of the kind subject to the tax under this part which occurs after January 1, 1984.

(2) Thirty days after the effective date of this subdivision.

Any penalty which was assessed by the board for that period and which was paid shall be refunded. In the event that any penalty assessed for the period was not paid, the lien created by subdivision (b) shall be extinguished and the costs incident to the impounding and storage of the vehicle shall be canceled.

This subdivision shall remain operative only until December 31,

1984.

(d) The board, in conjunction with the Department of Motor Vehicles, shall provide for the written notification of all persons subject to this article who are operating vehicles registered in California of the provisions of subdivisions (a) and (b). At the time of registration, the Department of Motor Vehicles shall notify, in writing, all purchasers of new vehicles or transferees of used vehicles of a kind which use fuel taxable under this part of the provisions of this section.

SEC. 7. Section 8877 of the Revenue and Taxation Code is amended to read:

8877. If the board finds that a person's failure to secure a use fuel tax permit or to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 8701, 8756.5, 8801, and 8876.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has existing self-financing authority pursuant to Sections 75.60 and 75.65 of the Revenue and Taxation Code to pay for the program or level of service mandated by this act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the equitable and effective administration of the taxes affected by this act as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 513

An act to add Section 7252.5 to the Revenue and Taxation Code, relating to the Tahoe Transportation District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 7252.5 is added to the Revenue and Taxation Code, to read:

7252.5. "District," as used in this part, also means the Tahoe Transportation District, if authorized to impose transactions and use taxes pursuant to this part.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Transactions and Use Tax Law may be made applicable to the Tahoe Transportation District under the Tahoe Regional Planning Compact amendments, as adopted by both California and Nevada, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 514

An act to add Section 728.1 to the Public Utilities Code, relating to public utilities.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 728.1 is added to the Public Utilities Code, to read:

728.1. (a) For purposes of this section, "plant held for future use account" means account number 105 of the Uniform System of Accounts Prescribed for Public Utilities and Licensees, as adopted by the commission.

(b) The commission shall review the status of all property owned by a gas or electrical corporation and held within the plant held for future use account at least once every three years or during a proceeding conducted pursuant to Section 728, for the purpose of determining and fixing the rates of that gas or electrical corporation, as determined by the commission.

(c) If a gas or electrical corporation sells property which was held within the plant held for future use account and which was included in determining the rates charged by the gas or electrical corporation, the commission shall require that all gains from the sale be allocated to the ratepayers of the gas or electrical corporation in a manner consistent with the procedures specified in account number 105 of the Uniform System of Accounts Prescribed for Public Utilities and Licensees.

CHAPTER 515

An act to amend and repeal Sections 43.7 and 43.8 of the Civil Code, relating to immunity.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of

the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or attorney who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or attorneys for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons or attorneys for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if the evaluating physician and surgeon, podiatrist, or attorney acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after a reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 43.7 of the Civil Code, as amended by Section 1.8 of Chapter 1081 of the Statutes of 1983, shall have the same force and effect as if this temporary

provision had not been enacted.

SEC. 2. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist,

veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, chiropractor, or attorney who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, chiropractors, or attorneys for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons or attorneys for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if the evaluating physician and surgeon, podiatrist, chiropractor, or attorney acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after a reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 43.7 of the Civil Code, as amended by Section 1.8 of Chapter 1080 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding

undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or chiropractor who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or chiropractors for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon, podiatrist, or chiropractor acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 4. Section 43.8 of the Civil Code is amended to read:

43.8. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, veterinary hospital staff, professional society, medical, dental, podiatric school, or veterinary school, professional licensing board or division, committee or panel of such licensing board, peer review committee, quality assurance committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section 43.7 when such communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts or law and does not represent as true any matter not reasonably believed to be true. The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege which may be afforded by Section 47.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990,

pursuant to Section 9611 of the Government Code, Section 43.8 of the Civil Code, as amended by Section 2 of Chapter 1081 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 2 of this bill incorporates amendments to Section 43.7 of the Civil Code proposed by both this bill and A.B. 2634. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 43.7 of the Civil Code, and (3) this bill is enacted after A.B. 2634, in which case Section 1 of this bill shall not become operative.

SEC. 6. Notwithstanding any other provision of this act, if Section 2 of this act becomes operative and is repealed January 1, 1990, then Section 3 of this act shall become operative on January 1, 1990, in which case Section 43.7 of the Civil Code as amended by Section 1.8 of Chapter 1081 of the Statutes of 1983 shall have no force or effect.

CHAPTER 516

An act to amend Sections 25515.1 and 25515.2 of, and to add Section 25366.5 to, the Government Code, relating to counties.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 25366.5 is added to the Government Code, to read:

25366.5. In the case of real property which is leased, sold, exchanged, or otherwise disposed of pursuant to this chapter, the failure of the county to comply with the procedures applicable to such lease, sale, exchange, or other disposition shall not invalidate the interest of a bona fide lessee, purchaser, or encumbrancer for value.

SEC. 2. Section 25515.1 of the Government Code is amended to read:

25515.1. (a) After complying with Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, in managing its real property acquired prior to January 1, 1984, a county may: (1) sell, or lease for a term not to exceed 99 years, any of its real property to any person, partnership, corporation, or governmental entity as the governing body may select for purposes of cultural, residential, commercial, or industrial use or development, subject to periodic review by the county, upon such terms and conditions as the board of supervisors may determine; (2) participate as a principal party in the development of cultural, residential, commercial, or industrial uses or development thereof as a public works project; (3) contract for the management, marketing, operation, or leasing of its real property for purposes of cultural,

residential, commercial, or industrial use or development.

Prior to entering into any such agreement the board of supervisors shall determine that the sale, lease, development, or other contract will result in economic benefits to the county. If the proposed agreement is a lease, the board of supervisors shall also determine (1) that the public benefit of the proposed lease agreement is expected to be greater than the public benefit which would result from the sale of the property, and (2) that a reasonable expectation exists that future public need justifies retention of the fee ownership of the property. If the property to be used or developed is adjacent to, or a portion of, real property which is, or will be, used for other governmental activities, the board of supervisors shall also determine that the agreement will not interfere with the use or development of the remaining public property.

(b) In managing any of its property acquired after January 1, 1984, and after complying with Sections 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, by means of an exchange of property with any public agency or by a purchase using the proceeds of the sale of other county surplus property, a county may sell, lease, develop, or otherwise dispose of any such property in the manner set forth in this section. This subdivision is not applicable to any county lands acquired through eminent domain proceedings.

SEC. 3. Section 25515.2 of the Government Code is amended to read:

25515.2. (a) Any sale, lease, development, or contract agreement entered into pursuant to this article shall be authorized by an ordinance adopted by the board of supervisors. The ordinance shall be subject to referendum in the manner prescribed by law for ordinances of counties.

(b) Prior to adopting an ordinance authorizing a sale, lease, development, or contract agreement the board of supervisors shall hold a public hearing. Notice of the time and place of the hearing shall be published pursuant to Section 6066 in one or more newspapers of general circulation within the county and shall be mailed to any person requesting special notice, to any present tenant of the public property, and to all owners of land adjoining the property.

(c) Any sale, lease, development, or contract agreement shall be awarded after competitive bidding in the manner determined by the board of supervisors, or, if approved by a four-fifths vote of the board of supervisors, after a request for proposals.

(d) Any sale, lease, development, or contract agreement awarded pursuant to competitive bidding shall be determined by the board of supervisors to meet all of the following criteria:

(1) Offers the greatest economic return to the county.

(2) Meets the residential, commercial, industrial, or cultural development needs of the county.

(e) Notice inviting the bids shall be published in the same manner

as set forth in subdivision (g).

(f) For the purpose of receiving proposals, the board of supervisors shall, in a regular open meeting, adopt a resolution declaring its intention to consider the proposals. The resolution shall identify the site, shall specify whether the site is intended to be used for residential, commercial, industrial or cultural development or both, and shall fix a time not less than 60 days thereafter for a public meeting of the board of supervisors to be held at its regular place of meeting, at which meeting the board of supervisors shall receive all plans or proposals submitted.

(g) Notice of adoption of the resolution and the time and place of holding the meeting shall be given by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the county in which the property is located. In addition, the board of supervisors may authorize the purchase of advertising space and may advertise the proposed transaction in such newspapers, magazines, and other periodicals as, in its judgment, will publicize the proposed transaction to those most likely to submit a proposal or bid.

(h) At the time and place fixed in the resolution the board of supervisors shall meet and open the bids or receive the plans and proposal. The plan or proposal as submitted or as revised by the board of supervisors shall be incorporated into the lease, development, or contract agreement. The board of supervisors may reject any and all bids or plans and proposals submitted.

CHAPTER 517

An act to amend Section 311 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 311 of the Public Utilities Code is amended to read:

311. The commission, each commissioner, the executive director, and the assistant executive directors may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

The administrative law judges may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under such rules as the commission adopts. The commission, upon scheduling hearings and specifying the scope of issues to be heard in any

proceeding involving an electrical, gas, telephone, railroad, or water corporation, shall assign an administrative law judge to preside over the hearings, either sitting alone or assisting the commissioner or commissioners who will hear the case. The administrative law judge shall prepare and file an opinion setting forth recommendations, findings, and conclusions. The opinion of the administrative law judge shall become the proposed decision and a part of the public record in the proceeding. The evidence in any hearing shall be taken by the administrative law judge designated for that purpose. The proposed decision of the administrative law judge shall be filed with the commission and served upon all parties to the action or proceeding without undue delay, and, in the case of a proceeding involving an electrical, gas, or telephone corporation, shall not be later than 90 days after the matter has been submitted for decision. The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part thereof. Every finding, opinion, and order made in the proposed decision and approved or confirmed by the commission shall, upon that approval or confirmation, be the finding, opinion, and order of the commission.

The commission may specify that the administrative law judge assigned to a proceeding involving an electrical, gas, telephone, railroad, or water corporation initiated by ratepayer or subscriber complaint need not prepare, file, and serve an opinion, unless the commission finds this is required in the public interest in a particular case.

CHAPTER 518

An act to amend Section 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person

or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under such terms and conditions as are specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

SEC. 2. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under such terms and conditions as are specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant

to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

(m) Security officers of the Department of General Services of the City of Los Angeles designated by the general manager of the department. Notwithstanding any other provision of law, the peace officers designated by this subdivision shall not be authorized to carry firearms.

SEC. 3. Section 2 of this bill incorporates amendments to Section 830.4 of the Penal Code proposed by both this bill and AB 2194. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 830.4 of the Penal Code, and (3) this bill is enacted after AB 2194, in which case Section 830.4 of the Penal Code, as amended by AB 2194, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. It is the intent of the Legislature that the changes effected by Section 1 of this act serve only to rename security officers of the County of Los Angeles as safety police officers of the County of Los Angeles.

SEC. 5. It is the intent of the Legislature that the additional changes effected by Section 2 of this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

CHAPTER 519

An act to add Section 683.2 to the Civil Code, relating to joint tenancies.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 683.2 is added to the Civil Code, to read:

683.2. (a) In addition to any other means by which a joint tenancy may be severed, a joint tenant may sever a joint tenancy in real property as to the joint tenant's interest without the joinder or consent of the other joint tenants by any of the following means:

(1) Execution and delivery of a deed that conveys legal title to the joint tenant's interest to a third person, whether or not pursuant to an agreement that requires the third person to reconvey legal title to the joint tenant.

(2) Execution of a written instrument that evidences the intent to sever the joint tenancy, including a deed that names the joint tenant as transferee, or of a written declaration that, as to the interest of the joint tenant, the joint tenancy is severed.

(b) Nothing in this section authorizes severance of a joint tenancy contrary to a written agreement of the joint tenants.

(c) This section applies to all joint tenancies in real property, whether the joint tenancy was created before, on, or after January 1, 1985, except that in the case of the death of a joint tenant before January 1, 1985, the validity of a severance is determined by the law in effect at the time of death.

CHAPTER 520

An act to amend Sections 34459 and 34461 of the Government Code, relating to municipal charters.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 34459 of the Government Code is amended to read:

34459. The charter of any city may be amended or repealed by proposals submitted by the governing body on its own motion or by petition signed by 15 percent of the registered voters, or both.

The charter of a city and county may be amended or repealed by proposals submitted by the governing body or by a petition signed by 10 percent of the qualified electors of the city and county, computed upon the total number of votes cast in the city and county for all candidates for Governor at the last general election at which a Governor was elected, or both. Such proposals shall be submitted to the electors at either a special election called for that purpose or at any general or special election.

SEC. 2. Section 34461 of the Government Code is amended to read:

34461. If the petition is signed by not less than 15 percent of the registered electors of the city, or not less than 10 percent of the registered voters of a city and county, the legislative body shall, within 20 days after it is presented, order an election at which the proposal, without alteration, shall be submitted to a vote of the voters of the city or the city and county. The election shall be held at the next regularly scheduled or established election, at which all the voters of the city or the city and county are eligible to vote, occurring not less than 90 days after the order of the legislative body. Amendments proposed by the governing body and amendments proposed by petition of the voters may be submitted at the same election. The governing body of the city or city and county shall cause the proposed charter amendments or the proposal for charter repeal to be published once in the official newspaper of the city or city and county and in each edition thereof, during the day of publication, not less than 40, and not more than 60, days prior to the election. In case there is no official newspaper, the proposals for charter amendment or repeal shall be published in a newspaper of general circulation within the city or city and county and in all editions thereof, issued during the day of publication. If the governing body causes copies of any proposed charter amendments to be mailed to the voters, the text of the proposed charter amendments may show the difference from existing provisions of law by the use of distinguishing type styles.

CHAPTER 521

An act to amend Sections 45245, 45256, 45260, 45264, 88065, 88076, 88080, and 88084 of, and to repeal Sections 45161, 45254, 45256, 45260, 45264, 45275, 45299, 88074, 88076, 88080, 88084, 88094, 88118, and 88161 of, the Education Code, relating to public school employment.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 45161 of the Education Code is repealed.

SEC. 2. Section 45245 of the Education Code is amended to read:

45245. One member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an exclusive representative which represents the largest number of

noncertificated employees in a unit or units within the district. If there is no such exclusive representative within the district the governing board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.

SEC. 3. Section 45254 of the Education Code is repealed.

SEC. 4. Section 45256 of the Education Code, as amended by Section 1 of Chapter 784 of the Statutes of 1981, is amended to read:

45256. (a) The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service, as specified in subdivision (b). The employees and positions shall be known as the classified service. "To classify" shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications.

(b) Exempt from the classified service are the following:

(1) Positions which require certification qualifications.

(2) Part-time playground positions.

(3) Full-time students employed part time.

(4) Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 and which is financed by state or federal funds.

(5) Apprentice positions.

(6) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87½ percent of the normally assigned time of the majority of employees in the classified service.

SEC. 5. Section 45256 of the Education Code, as added by Section 2 of Chapter 784 of the Statutes of 1981, is repealed.

SEC. 6. Section 45260 of the Education Code, as amended by Section 1 of Chapter 1514 of the Statutes of 1982, is amended to read:

45260. (a) The commission shall prescribe, amend, and interpret, subject to this article, such rules as may be necessary to insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between the governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

(b) No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the public school employer of the classified employees who would be affected have been given reasonable notice of the proposal.

SEC. 7. Section 45260 of the Education Code, as amended by Section 2 of Chapter 1514 of the Statutes of 1982, is repealed.

SEC. 8. Section 45264 of the Education Code, as amended by Section 5 of Chapter 784 of the Statutes of 1981, is amended to read:

45264. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall appoint all employees paid from funds budgeted for the support of the commission and shall supervise the activities of those employees that are performed as part of the functions of the commission. Such employees shall be appointed from eligibility lists established pursuant to the provisions of this article, be classified employees of the school district and be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, including representation by the appropriate exclusive representative, if any.

SEC. 9. Section 45264 of the Education Code, as added by Section 6 of Chapter 784 of the Statutes of 1981, is repealed.

SEC. 10. Section 45275 of the Education Code is repealed.

SEC. 11. Section 45299 of the Education Code is repealed.

SEC. 12. Section 88065 of the Education Code is amended to read:

88065. One member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an exclusive representative which represents the largest number of noncertificated employees in a unit or units within the district. If there is no such exclusive representative within the district the governing board shall, by written rule, prescribe the method by

which the recommendation is to be made by its classified employees.

SEC. 13. Section 88074 of the Education Code is repealed.

SEC. 14. Section 88076 of the Education Code, as amended by Section 1 of Chapter 572 of the Statutes of 1982, is amended to read:

88076. (a) The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service, as specified in subdivision (b). The employees and positions shall be known as the classified service. "To classify" shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications.

(b) Exempt from the classified service shall be:

(1) Positions which require certification qualifications,

(2) Part-time playground positions,

(3) Full-time students employed part time,

(4) Part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of this division and which is financed by state or federal funds,

(5) Apprentice positions,

(6) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provisions of this law.

No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service.

A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87½ percent of the normally assigned time of the majority of employees in the classified service.

SEC. 15. Section 88076 of the Education Code, as added by Section 2 of Chapter 572 of the Statutes of 1982, is repealed.

SEC. 16. Section 88080 of the Education Code, as amended by Section 5.5 of Chapter 1514 of the Statutes of 1982, is amended to read:

88080. (a) The commission shall prescribe and, amend, and interpret subject to this article, such rules as may be necessary to

insure the efficiency of the service and the selection and retention of employees upon a basis of merit and fitness. The rules shall not apply to bargaining unit members if the subject matter is within the scope of representation, as defined in Section 3543.2 of the Government Code, and is included in a negotiated agreement between the governing board and that unit. The rules shall be binding upon the governing board, but shall not restrict the authority of the governing board provided pursuant to other sections of this code.

(b) No rule or amendment which would affect classified employees who are represented by a certified or recognized exclusive bargaining representative shall be adopted by the commission until the exclusive bargaining representative and the community college employer of the classified employees who would be affected have been given reasonable notice of the proposal.

SEC. 17. Section 88080 of the Education Code, as added by Section 5.7 of Chapter 1514 of the Statutes of 1982, is repealed.

SEC. 18. Section 88084 of the Education Code, as amended by Section 5 of Chapter 572 of the Statutes of 1982, is amended to read:

88084. The commission shall appoint a personnel director within 90 days after the adoption of a merit system from an eligibility list established from a competitive examination given under the auspices of the commission. The commission shall appoint all employees paid from funds budgeted for the support of the commission and shall supervise the activities of those employees that are performed as a part of the functions of the commission. These employees shall be appointed from eligibility lists established pursuant to the provisions of this article, be classified employees of the community college district and shall be accorded all the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, including representation by the appropriate exclusive representative, if any.

SEC. 19. Section 88084 of the Education Code, as added by Section 6 of Chapter 572 of the Statutes of 1982, is repealed.

SEC. 20. Section 88094 of the Education Code is repealed.

SEC. 21. Section 88118 of the Education Code is repealed.

SEC. 22. Section 88161 of the Education Code is repealed.

SEC. 23. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 24. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 522

An act to amend Section 15082 of the Unemployment Insurance Code, and to add Section 11312 to, and to add Article 3.8 (commencing with Section 11347) to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public social services and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 15082 of the Unemployment Insurance Code is amended to read:

15082. Federal and state funds to be transferred to the Consolidated Work Program Fund shall include all of the following:

(a) That portion of the federal employment and training funds received by the state that is designated for the purpose of local delivery of employment and training services, except for those funds designated for employment activities under Title IV-A and IV-C of the federal Social Security Act (42 U.S.C. Sec. 601 et seq. and Sec. 630 et seq.) and the Food Stamp Act (7 U.S.C. Sec. 2011 et seq.).

(b) Reinvestment of a portion of state public assistance grant savings reasonably attributable to the operation of this program. The Governor's Budget shall annually identify such savings resulting from the prior fiscal year's program operations and recommend the portion, if any, to be applied toward program funding during the budget year.

(c) Federal funds received by the state pursuant to Section 202(b) and Title III of the federal Job Training Partnership Act. However, these funds shall be allocated pursuant to subdivision (e) of Section 15037.

SEC. 2. Section 11312 is added to the Welfare and Institutions Code, to read:

11312. (a) The State Department of Social Services may establish, if permitted in accordance with subdivision (c), a grant diversion program as part of the Work Incentive Demonstration Program. In addition, the State Department of Social Services may seek appropriate waivers from the federal government, if necessary, in order to operate the grant diversion program.

(b) This program shall be administered in accordance with agreements between counties and entities administering services in service delivery areas designated pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, subject to the approval of the State Department of Social Services. The program shall provide for the diversion of aid to pay a part of the wages of participants engaged in on-the-job training

with employers who have agreed to employ participants upon successful completion of the training, or employed by a nonprofit agency which places recipients in training with employers and receives compensation from the employers for the services performed by the recipients. On-the-job training programs utilizing grant diversions shall be for a period not exceeding one year, and the amount of the wage subsidy shall be periodically reduced during the period of training.

(c) Implementation of the grant diversion program pursuant to this section shall commence only upon the enactment of further legislation authorizing the program and specifying the details of the program.

SEC. 3. Article 3.8 (commencing with Section 11347) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.8. Work Incentive Demonstration Program

11347. It is the intent of the Legislature to improve the efficiency of work-related services provided to applicants and recipients of the Aid to Families with Dependent Children program. Toward the achievement of this end, and notwithstanding any other provision of law, the State Department of Social Services shall have authority to establish a Work Incentive Demonstration Program in accordance with Section 445 of the federal Social Security Act (42 U.S.C. Sec. 645). The Work Incentive Demonstration Program shall provide for no more than the following:

(a) County welfare departments shall have the responsibility for registering applicants and recipients for the program.

(b) In implementing the program, the State Department of Social Services shall contract with the Employment Development Department to provide services pursuant to Division 2 (commencing with Section 5000) of the Unemployment Insurance Code to applicants and recipients of aid under this chapter who are registered under subdivision (a) of Section 11310. Under the terms of the contract, the Employment Development Department is authorized to carry out any or all of the functions specified in Division 2 (commencing with Section 5000) of the Unemployment Insurance Code, except as otherwise provided under subdivision (c).

(c) The State Department of Social Services shall conduct the hearings regarding any dispute which concerns issues under the Work Incentive Demonstration Program. "Good cause" shall be as defined in Sections 5007 and 5007.5 of the Unemployment Insurance Code. The hearings shall be requested and conducted under the provisions of Chapter 7 (commencing with Section 10950) of Part 2. Nothing in this section precludes the registrant's right to conciliation efforts as specified in Section 5302 of the Unemployment Insurance Code.

(d) The department shall reduce the amount of reporting to the

federal government to the extent permitted by federal Work Incentive Demonstration Program regulations.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that this state has the opportunity to implement a Work Incentive Demonstration Program, it is necessary that this act go into immediate effect.

CHAPTER 523

An act to amend Section 51235 of the Government Code, to amend Item 9100-101-001 of the Budget Act of 1983, and the provisions applicable thereto, and to amend Item 9100-101-001 of the Budget Act of 1984, and the provisions applicable thereto, relating to open-space lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

I am deleting the amendment to Item 9100-101-001 of the Budget Act of 1984, and the provisions applicable thereto, contained in Section 3 of Assembly Bill No. 4020.

Item 9100-101-001 as amended by this bill contains an inadvertent drafting error which would reverse the appropriations for (d) 50-Homeowners' Property Tax Relief ($13,200,000 instead of $334,500,000) and (e) 60-Subventions for Open Space ($334,500,000 instead of $13,200,000). This drafting error can be corrected when the Legislature returns from its Summer Recess.

With this deletion, I approve Assembly Bill No. 4020

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 51235 of the Government Code is amended to read:

51235. An agricultural preserve shall continue in full effect following annexation, detachment, incorporation or disincorporation of land within the preserve.

Any city or county acquiring jurisdiction over land in a preserve by annexation, detachment, incorporation or disincorporation shall have all the rights and responsibilities specified in this act for cities or counties including the right to enlarge, diminish or disestablish an agricultural preserve within its jurisdiction.

SEC. 2. Item 9100-101-001 of the Budget Act of 1983, and the provisions applicable thereto, is amended to read:

9100-101-001—For local assistance, Tax Relief 1,099,071,000

Schedule:

(a) 10-Senior Citizens' Property Tax

Assistance	1,291,000
(b) 20-Senior Citizens' Property Tax Deferral Program	7,150,000
(c) 30-Senior Citizens' Renters' Tax Assistance	7,014,000
(d) 40-Personal Property Tax Relief	277,870,000
(e) 50-Homeowners' Property Tax Relief	336,000,000
(f) 60-Subvention for Open Space	13,530,000
(g) 70-Payments to Local Government for Sales and Property Tax Revenue Loss	3,776,000
(h) 80-Renters' Tax Relief	452,370,000
(i) 90-Substandard Housing	70,000

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).

2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).

4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the repeal or reduction of the property tax on the following classes of property affected by the fol-

lowing provisions of the Revenue and Taxation Code: (1) business inventories under Section 219; (2) motion pictures under Section 988; (3) livestock under Sections 5523 and 5546; and (4) wine and brandy under Section 992; Controller.

The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

5. Schedule (e) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to Section 3k of Article XIII of the Constitution, Controller. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16100 of the Government Code.
6. Schedule (f) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.
7. Schedule (g) is for reimbursement to local taxing authorities for revenue lost in accordance with the provisions of Sections 2229 and 2230 of the Revenue and Taxation Code, State Controller and, provided that the reimbursement for property tax revenue loss resulting from the restricted valuation of land under a wildlife habitat contract pursuant to Chapter 1165, Statutes of 1973, shall be based on a comparison between the value of the land computed pursuant to Section 423.7 of the Revenue and Taxation Code and the value of the land computed pursuant to Section 110.1 of the Revenue and Taxation Code.
8. Schedule (h) is for transfer by the Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by

Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.

9. Schedule (i) is for transfer by the Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

This amount is in lieu of any statutory requirements.

SEC. 3. Item 9100-101-001 of the Budget Act of 1984, and the provisions applicable thereto, is amended to read:

9100-101-001—For local assistance, Tax Relief		847,786,000
Schedule:		
(a) 10-Senior Citizens' Property Tax Assistance	7,920,000	
(b) 20-Senior Citizens' Property Tax Deferral Program	9,300,000	
(c) 30-Senior Citizens' Renters' Tax Assistance	32,130,000	
(d) 50-Homeowners' Property Tax Relief	13,200,000	
(e) 60-Subvention for Open Space	334,500,000	
(f) 70-Payments to Local Government for Sales and Property Tax Revenue Loss	3,638,000	
(g) 80-Renters' Tax Relief	447,000,000	
(h) 90-Substandard Housing	98,000	

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).

2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property

Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).

4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the Constitution, Controller. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16120 of the Government Code.

5. Schedule (e) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purposes contained in Section 16100 or 16140 of the Government Code.

6. Schedule (f) is for reimbursement to local taxing authorities for revenue lost in accordance with the provisions of Sections 2229 and 2230 of the Revenue and Taxation Code, State Controller and, provided that the reimbursement for property tax revenue loss resulting from the restricted valuation of land under a wildlife habitat contract pursuant to Chapter 1165, Statutes of 1973, shall be based on a comparison between

the value of the land computed pursuant to Section 423.7 of the Revenue and Taxation Code and the value of land computed pursuant to Section 110.1 of the Revenue and Taxation Code.

7. Schedule (g) is for transfer by the Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.

8. Schedule (h) is for transfer by the Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

This amount is in lieu of any statutory requirements.

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect.

In order that the Department of Conservation may properly carry out its duties under the California Land Conservation Act of 1965, it is necessary that this act go into immediate effect. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 524

An act to amend Section 44227 of the Education Code, relating to teacher credentialing.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 44227 of the Education Code is amended to read:

44227. (a) The commission may approve any institution of higher education whose teacher education program meets the standards prescribed by the commission, to recommend to the commission the issuance of credentials to persons who have successfully completed such programs.

(b) Notwithstanding any provision of law to the contrary, the commission may approve for credit any coursework completed for credential purposes or for step increases in programs offered in California by out-of-state institutions of higher education which meet the requirements prescribed by subdivision (a) of Section 94310 only if the program of courses is offered by a regionally accredited institution and evidence of satisfactory evaluation by both that accrediting body and the Western Association of Schools and Colleges is submitted by the out-of-state institution to the commission for purposes of seeking approval of the program and any courses within that program for the purposes of obtaining a credential in California.

(c) Out-of-state applicants shall meet the following requirements for the preliminary multiple or single subject teaching credential:

(1) A baccalaureate or higher degree from an accredited institution of postsecondary education.

(2) The completion of a teacher training program approved by the applicable state agency.

(3) The verification of subject matter competence either through an examination, or by the completion of an approved program or the equivalent of an approved program.

(4) The completion of a course or examination on the various methods of teaching reading.

(5) Passage of the state basic skills proficiency test.

(6) The completion of a course or an examination on the Constitution of the United States.

(d) Out-of-state applicants shall meet the following requirements for the clear multiple or single subject teaching credential:

(1) A fifth year of study.

(2) The study of education, including the study of physiological and sociological effects of the abuse of alcohol, narcotics, drugs, and tobacco.

(3) The completion of the study and practice of methods of teaching individuals with exceptional needs.

(e) The commission shall assess the records of out-of-state teachers who have been granted a five-year preliminary credential for purposes of determining any additional coursework which may be required as a condition for the issuance of a clear credential. The assessment shall determine the equivalency of out-of-state coursework in comparison to California coursework requirements, and, where applicable, shall specify additional coursework to be taken. In determining the equivalency of out-of-state coursework to California requirements, the commission shall do all of the following:

(1) Accept a master's degree or higher degree from an accredited postsecondary educational institution demonstrating completion of an educationally related and organized program involving at least 30 semester units of post-baccalaureate coursework from an accredited postsecondary educational institution for purposes of meeting the fifth year of study requirement.

(2) Upon direct application, grant a clear credential if the out-of-state teacher has met the requirements of paragraphs (1) to (3), inclusive, of subdivision (d).

(3) Notify the out-of-state teacher who has completed the fifth year equivalency requirement, but who has not met the requirements of paragraph (2) or (3) of subdivision (d), that upon the submission of verification that he or she has completed these requirements, he or she may submit an application to the commission for a clear credential.

(4) Notify out-of-state applicants who have not completed the fifth year of study requirement that they must obtain an evaluation of a postsecondary educational institution with an approved fifth year program. In the event that there is a significant difference of opinion as to the content or units credited to out-of-state coursework, either the applicant or the postsecondary educational institution may solicit the opinion of the commission. Upon the completion of the coursework specified in the postsecondary educational institution's evaluation, the institution may recommend the applicant for a clear credential.

(f) In the event that an applicant is unable to secure the recommendation of a postsecondary educational institution for the issuance of a clear credential, the applicant may submit a direct application to the commission documenting that he or she has completed all of the requirements for a clear credential. If the commission determines that all of the requirements have been met, the commission shall grant the clear credential.

CHAPTER 525

An act to amend Section 2815 of, and to add Section 2835.5 to, the Business and Professions Code, relating to nursing.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 2815 of the Business and Professions Code is amended to read:

2815. Subject to the provisions of Section 128.5, the amount of the fees prescribed by this chapter in connection with the issuance of licenses for registered nurses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a license shall be fixed by the board at not more than fifty dollars ($50).

(b) The fee to be paid for taking each examination shall be fixed by the board at not more than sixty-five dollars ($65).

(c) The biennial fee to be paid upon the filing of an application for renewal of the license shall be not more than fifty dollars ($50).

(d) The penalty fee for failure to renew a license within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee, but not more than twenty-five dollars ($25).

(e) The fee to be paid for approval of a continuing education provider shall be fixed by the board at not more than one hundred fifty dollars ($150).

(f) The biennial fee to be paid upon the filing of an application for renewal of provider approval shall be fixed by the board at not more than one hundred fifty dollars ($150).

(g) The fee to be paid upon the filing of an application for the examination taken in lieu of a continuing education program shall be fixed by the board to compensate for the cost of preparation and administration of the examination, but in no case shall exceed fifty dollars ($50).

(h) The penalty for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the board shall be ten dollars ($10).

(i) The fee to be paid for an interim permit shall be fixed by the board at not more than twenty dollars ($20).

(j) The fee to be paid for a temporary license shall be fixed by the board at not more than twenty dollars ($20).

(k) The fee to be paid for rescoring each section of an examination shall be fixed by the board at not more than twenty dollars ($20).

(*l*) The fee to be paid for processing endorsement papers to other states shall be fixed by the board at not more than fifty dollars ($50).

(m) The fee to be paid for a certified copy of a school transcript

shall be fixed by the board at not more than twenty dollars ($20).

(n) The fee to be paid for a duplicate license shall be fixed by the board at not more than twenty dollars ($20).

(o) The fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title "nurse practitioner" shall be fixed by the board at an amount necessary to cover the actual cost to the board of the evaluation but in no event at more than one hundred fifty dollars ($150).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 2. Section 2835.5 is added to the Business and Professions Code, to read:

2835.5. On and after January 1, 1985, any registered nurse who is holding himself or herself out as a nurse practitioner or who desires to hold himself or herself out as a nurse practitioner shall, within the time prescribed by the board and prior to his or her next license renewal or the issuance of an initial license, submit educational, experience, and other credentials and information as the board may require for it to determine that the person qualifies to use the title "nurse practitioner," pursuant to the standards and qualifications established by the board.

Upon finding that a person is qualified to hold himself or herself out as a nurse practitioner, the board shall appropriately indicate on the license issued or renewed, that the person is qualified to use the title "nurse practitioner." The board shall also issue to each qualified person a certificate evidencing that the person is qualified to use the title "nurse practitioner."

Any person who has been found to be qualified by the board to use the title "nurse practitioner" prior to the effective date of this section, shall not be required to submit any further qualifications or information to the board and shall be deemed to have met the requirements of this section.

CHAPTER 526

An act to amend Section 204 of, to add Article 1.5 (commencing with Section 240) to Chapter 2 of Division 1 of, to add an article heading immediately preceding Section 331 of, and to repeal Sections 315.5 and 333 of, the Fish and Game Code, relating to fish and game.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Article 1.5 (commencing with Section 240) is added to Chapter 2 of Division 1 of the Fish and Game Code, to read:

Article 1.5. Emergency Regulations

240. (a) Notwithstanding any other provisions of this code, the commission, when promulgating regulations pursuant to any authority otherwise vested in it by this code, may, after at least one hearing, adopt an emergency regulation or order of repeal pursuant to Section 11346.1 of the Government Code if it makes either of the following findings:

(1) That the adoption of a regulation or order of repeal of a regulation is necessary for the immediate conservation, preservation, or protection of birds, mammals, reptiles, or fish, including, but not limited to, any nests or eggs thereof.

(2) That the adoption of a regulation or order of repeal of a regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Except as provided herein, any regulation or order of repeal adopted pursuant to the provisions of this section shall be otherwise subject to review by the Office of Administrative Law conducted pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 204 of the Fish and Game Code is amended to read:

204. The commission has no power under this article to make any regulation authorizing or permitting the taking of:

(a) Any bird or mammal in any refuge heretofore or hereafter established by statute, the taking or possession of which shall be regulated pursuant to Sections 10500 to 10506, inclusive.

(b) Elk, the taking or possession of which shall be regulated pursuant to Section 332.

(c) Antelope, the taking or possession of which shall be regulated pursuant to Section 331.

(d) Any spike buck or spotted fawn. "Spotted fawn" means a young deer born that year which has spotted pelage. "Spike buck" means a male deer with unbranched antlers on both sides which are more than three inches in length.

Any regulation establishing a season to compensate for closure of an area due to extreme fire hazard shall be made pursuant to Section 306.

Any regulation setting a special hunting season for mammals, except deer, or game birds which have increased in number to such an extent that a surplus exists or which are damaging property or are overgrazing their range shall be made pursuant to Section 325.

SEC. 3. Section 315.5 of the Fish and Game Code is repealed.

SEC. 4. An article heading is added immediately preceding Section 331 of the Fish and Game Code, to read:

Article 2.1. Antelope and Elk

SEC. 5. Section 333 of the Fish and Game Code is repealed.

CHAPTER 527

An act to amend the heading of Chapter 21 (commencing with Section 1170) of Division 3 of, to add Part 7 (commencing with Section 250) to Division 2 of, to repeal and add Part 4 (commencing with Section 200) of Division 2 of, to repeal Article 1 (commencing with Section 1170) of Chapter 21 of Division 3 of, and to repeal the heading of Article 2 (commencing with Section 1190) of Chapter 21 of Division 3 of, the Probate Code, relating to death.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Part 4 (commencing with Section 200) of Division 2 of the Probate Code, as enacted by Chapter 842 of the Statutes of 1983, is repealed.

SEC. 2. Part 4 (commencing with Section 200) is added to Division 2 of the Probate Code, to read:

PART 4. ESTABLISHING FACT OF DEATH

CHAPTER 1. PROCEEDINGS TO ESTABLISH DEATH

200. If title to or an interest in real or personal property is affected by the death of a person, another person who claims an interest in the property may commence proceedings pursuant to this chapter to establish the fact of the death.

201. (a) Proceedings under this chapter shall be commenced in the superior court of the county of which the decedent was a resident at the time of death or in the superior court of any county in which the property is situated.

(b) Proceedings under this chapter shall be commenced by filing a verified petition that sets forth all of the following information:

(1) The jurisdictional facts.

(2) A particular description of the affected property and of the interest of the petitioner in the property.

202. If proceedings for the administration of the decedent's estate are pending, proceedings under this chapter may be combined with the administration proceedings in the following manner:

(a) The petition shall be filed in the administration proceedings by the person affected or by the executor or administrator.

(b) The petition shall be filed at any time before the filing of a petition for final distribution. The petition may be included in a verified petition for probate of the will of the decedent or for letters of administration.

(c) The petition shall be filed without any additional fee.

203. (a) The clerk shall set the petition for hearing by the court.

(b) Except as provided in subdivision (c):

(1) The clerk shall give notice of the hearing in the manner prescribed in Section 1200.

(2) The person who commenced the proceedings shall cause notice of the hearing to be given in the manner prescribed in Section 1200.5.

(c) If the person who commenced the proceedings files an affidavit with the petition stating that the person has no reason to believe there is any opposition to, or contest of, the petition, the court may act ex parte.

204. (a) The petition and supporting affidavits may be received in evidence and acted upon by the court with the same force and effect as if the petitioner and affiants were personally present and testified to the facts set forth.

(b) The court may render judgment establishing the fact of the death. The judgment is prima facie evidence of the fact of the death. The presumption established by this subdivision is a presumption affecting the burden of producing evidence.

CHAPTER 2. RECORDING EVIDENCE OF DEATH

210. If title to real property is affected by the death of a person, any person may record in the county in which the property is situated any of the following documents establishing the fact of the death:

(a) An affidavit of death executed by a person having knowledge of the facts. The affidavit shall include a particular description of the real property and an attested or certified copy of a record of the death made and filed in a designated public office as required by law.

(b) A certified copy of a court order that determines the fact of death made pursuant to Chapter 1 (commencing with Section 200) or pursuant to another statute that provides for a determination of the fact of death.

211. (a) A document establishing the fact of death recorded pursuant to this chapter is subject to all statutory requirements for recorded documents.

(b) The county recorder shall index a document establishing the fact of death recorded pursuant to this chapter in the index of grantors and grantees. The index entry shall be for the grantor, and for the purpose of this index, the person whose death is established shall be deemed to be the grantor.

212. A document establishing the fact of the death of a person recorded pursuant to this chapter is prima facie evidence of the

death insofar as the document identifies real property situated in the county, title to which is affected by the death. The presumption established by this section is a presumption affecting the burden of producing evidence.

SEC. 3. Part 7 (commencing with Section 250) is added to Division 2 of the Probate Code, to read:

PART 7. EFFECT OF HOMICIDE

250. (a) A person who feloniously and intentionally kills the decedent is not entitled to any of the following:

(1) Any property, interest, or benefit under the will of the decedent, including any general or special power of appointment conferred by the will on the killer and any nomination of the killer as executor, trustee, or guardian made by the will.

(2) Any property of the decedent by intestate succession.

(3) Any of the decedent's quasi-community property the killer would otherwise acquire under Section 101 or 102 upon the death of the decedent.

(4) Any property of the decedent under Part 3 (commencing with Section 6500) of Division 6.

(b) In the cases covered by subdivision (a):

(1) The estate of the decedent passes as if the killer had predeceased the decedent and Section 6147 does not apply.

(2) Property appointed by the will of the decedent to, or for the benefit of, the killer passes as if the killer had predeceased the decedent, and Section 1389.4 of the Civil Code does not apply.

(3) Provisions of the will of the decedent nominating the killer as executor, trustee, or guardian shall be interpreted as if the killer had predeceased the decedent.

251. A joint tenant who feloniously and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes as the decedent's property and the killer has no rights by survivorship. This section applies to joint tenancies in real and personal property, joint and multiple-party accounts in financial institutions, and any other form of coownership with survivorship incidents.

252. A named beneficiary of a bond, life insurance policy, or other contractual arrangement who feloniously and intentionally kills the principal obligee or the person upon whose life the policy is issued is not entitled to any benefit under the bond, policy, or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.

253. In any case not described in Section 250, 251, or 252 in which one person feloniously and intentionally kills another, any acquisition of property, interest, or benefit by the killer as a result of the killing of the decedent shall be treated in accordance with the principles of this part.

254. (a) A final judgment of conviction of felonious and

intentional killing is conclusive for purposes of this part.

(b) In the absence of a conviction of felonious and intentional killing, the court may determine by a preponderance of evidence whether the killing was felonious and intentional for purposes of this part. The burden of proof is on the party seeking to establish that the killing was felonious and intentional for the purposes of this part.

255. This part does not affect the rights of any person who, before rights under this part have been adjudicated, purchases from the killer for value and without notice property which the killer would have acquired except for this part, but the killer is liable for the amount of the proceeds or the value of the property.

256. An insurance company, financial institution, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this part, unless prior to payment it has received at its home office or principal address written notice of a claim under this part.

SEC. 4. The heading of Chapter 21 (commencing with Section 1170) of Division 3 of the Probate Code is amended to read:

CHAPTER 21. ESTABLISHING IDENTITY OF HEIRS

SEC. 5. Article 1 (commencing with Section 1170) of Chapter 21 of Division 3 of the Probate Code is repealed.

SEC. 6. The heading of Article 2 (commencing with Section 1190) of Chapter 21 of Division 3 of the Probate Code is repealed.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 528

An act to add Section 20394.5 to the Public Contract Code, relating to county highways.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 20394.5 is added to the Public Contract Code, to read:

20394.5. Notwithstanding any other provision of this article, in any county containing 20,000 or more square miles and in which there are more than 4,000 miles of county-maintained road, whenever the board of supervisors finds that the estimated expense

of any work to be done upon any county highway is fifty thousand dollars ($50,000) or less, the board or the purchasing agent may have the work done by contract upon notice describing the work in general terms and stating a closing date for submission of bids. Notice shall be published in a newspaper of general circulation printed and published within the jurisdiction of the county. Notice shall be published in accordance with Section 6066 of the Government Code and shall be completed at least 48 hours before the time scheduled for opening of the bids. Notice inviting bids may also be published in a trade publication The successful bidder shall give a bond in such sum as the board requires, conditioned on the faithful performance of the contract, and on the payment of all labor employed and material used in the work. The board may delegate this authority to the county road commissioner.

CHAPTER 529

An act to amend Sections 6851 and 6956 of, to add Section 6956.1 to, and to repeal Section 6858 of, the Business and Professions Code, relating to collection agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 6851 of the Business and Professions Code is amended to read:

6851. (a) "Person" includes any individual, firm, partnership, company, association, organization, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Collection and Investigative Services.

(e) "Chief" means the Chief of Collection and Investigative Services.

(f) "Board" means the Collection Agency Board.

(g) "Licensee" means a person licensed as a collection agency.

(h) "Manager" means a qualified certificate holder who is actively in charge of a licensed collection agency.

(i) "Commercial account" means any account based on a transaction other than for personal, family, or household purposes.

(j) "Assignment" means that legal title to a claim is transferred from the person owning the claim to a licensed collection agency notwithstanding the fact that the consideration paid by the licensed collection agency to the assignor is contingent upon collection of the claim.

SEC. 2. Section 6858 of the Business and Professions Code is repealed.

SEC. 3. Section 6956 of the Business and Professions Code is amended to read:

6956. The director shall charge and collect the following fees:

(1) An original license fee of five hundred thirty dollars ($530) for the 1984–85 fiscal year and seven hundred twenty-five dollars ($725) for every fiscal year thereafter.

(2) A license continuation fee of four hundred fifteen dollars ($415) for the 1984–85 fiscal year and four hundred sixty-five dollars ($465) for every fiscal year thereafter.

(3) A duplicate license fee of thirty dollars ($30).

(4) A temporary license fee of sixty-five dollars ($65) for the 1984–85 fiscal year and seventy-five dollars ($75) for every fiscal year thereafter.

(5) A delinquency fee of fifty dollars ($50), notwithstanding the provisions of Section 163.5.

(6) An examination fee of one hundred ten dollars ($110) for the 1984–85 fiscal year and one hundred fifty dollars ($150) for every fiscal year thereafter.

(7) A qualification certificate application fee of one hundred ten dollars ($110) for the 1984–85 fiscal year and one hundred ninety dollars ($190) for every fiscal year thereafter.

(8) A qualification certificate continuation fee of one hundred ten dollars ($110) for the 1984–85 fiscal year and one hundred fifty dollars ($150) for every fiscal year thereafter.

(9) A reinstatement fee of the amount of the annual continuation fee plus a penalty of two hundred five dollars ($205) for the 1984–85 fiscal year and a penalty of three hundred five dollars ($305) for every fiscal year thereafter, notwithstanding the provisions of Section 163.5.

(10) A reinstatement fee of the amount of the qualification certificate continuation fee plus a penalty of fifty dollars ($50), notwithstanding the provisions of Section 163.5.

(11) An employee registration fee of thirty dollars ($30) for the 1984–85 fiscal year and thirty-five dollars ($35) for every fiscal year thereafter.

(12) An employee registration continuation fee of thirty dollars ($30) for the 1984–85 fiscal year and thirty-five dollars ($35) for every fiscal year thereafter.

(13) A registration continuation delinquency fee of the amount of the registration continuation fee plus a penalty of fifteen dollars ($15) for the 1984–85 fiscal year and twenty dollars ($20) for every fiscal year thereafter, notwithstanding the provisions of Section 163.5.

(14) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge; and shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be

furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

SEC. 4. Section 6956.1 is added to the Business and Professions Code, to read:

6956.1. (a) Notwithstanding Sections 6950 and 6956, the annual continuation fee for a collection agency license subject to renewal between July 1, 1984, and December 31, 1984, inclusive, shall be eight hundred five dollars ($805). The reinstatement fee shall be eight hundred five dollars ($805) plus any fee assessable in accordance with paragraph (9) of Section 6956. Thereafter, the continuation fee for these licensees shall be as provided in Section 6956.

(b) If, for any reason, the provisions of subdivision (a) shall be declared invalid by a court or the bureau is prohibited from enforcing subdivision (a), the continuation fee for a license subject to renewal between July 1, 1985, and December 31, 1985, inclusive, shall be eight hundred eighty-five dollars ($885), and the reinstatement fee shall be eight hundred eighty-five dollars ($885) plus any fee assessable in accordance with paragraph (9) of Section 6956. Thereafter, the continuation fee for these licensees shall be as provided in Section 6956.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Collection Agency Fund will be significantly depleted by the close of this fiscal year if this bill is not enacted as an urgency statute. It is vital that revenues deposited into this fund are increased to assure adequate regulation of collection agencies and to thereby preserve important consumer protections in the law, and therefore it is necessary that this act go into immediate effect.

CHAPTER 530

An act to amend Sections 3236.5 and 3754.5 of the Public Resources Code, relating to oil and gas.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 3236.5 of the Public Resources Code is amended to read:

3236.5. (a) Any person who violates any provision of this chapter or any regulation implementing this chapter is subject to a civil penalty not to exceed five thousand dollars ($5,000) for each violation. Acts of God, and acts of vandalism beyond the reasonable control of the operator, shall not be considered a violation. The civil

penalty shall be imposed by an order of the supervisor upon a determination that a violation has been committed by the person charged, following notice to the person and an opportunity to be heard. The imposition of a civil penalty under this section shall be in addition to any other penalty provided by law for the violation. When establishing the amount of civil liability pursuant to this section, the supervisor shall consider, in addition to other relevant circumstances, (1) the extent of harm caused by the violation, (2) the persistence of the violation, (3) the number of prior violations by the same violator.

(b) An order of the supervisor imposing a civil penalty shall be reviewable pursuant to Article 6 (commencing with Section 3350). When the order of the supervisor has become final or has been upheld following exhaustion of the applicable review procedures, the supervisor may apply to the appropriate superior court for an order directing payment of the civil penalty.

(c) Any amount collected under this section shall be deposited in the General Fund.

SEC. 2. Section 3754.5 of the Public Resources Code is amended to read:

3754.5. (a) Any person who violates any provision of this chapter or any regulation implementing this chapter is subject to a civil penalty not to exceed five thousand dollars ($5,000) for each violation. Acts of God, and acts of vandalism beyond the reasonable control of the operator, shall not be considered a violation. The civil penalty shall be imposed by an order of the supervisor upon a determination that a violation has been committed by the person charged, following notice to the person and an opportunity to be heard. The imposition of a civil penalty under this section shall be in addition to any other penalty provided by law for the violation. When establishing the amount of civil liability pursuant to this section, the supervisor shall consider, in addition to other relevant circumstances, (1) the extent of harm caused by the violation, (2) the persistence of the violation, (3) the number of prior violations by the same violator.

(b) An order of the supervisor imposing a civil penalty shall be reviewable pursuant to Sections 3762 to 3771, inclusive. When the order of the supervisor has become final or has been upheld following exhaustion of the applicable review procedures, the supervisor may apply to the appropriate superior court for an order directing payment of the civil penalty.

(c) Any amount collected under this section shall be deposited in the General Fund.

SEC. 3. The amendments made by this act to Sections 3236.5 and 3754.5 of the Public Resources Code shall be applicable to violations occurring on or after January 1, 1985.

CHAPTER 531

An act to amend Section 13100 of the Fish and Game Code, relating to fish and game.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 13100 of the Fish and Game Code is amended to read:

13100. The amounts paid to and retained in the county treasurer pursuant to Section 13003 shall be deposited in a county fish and game propagation fund and expended for the propagation and conservation of fish and game within or outside the county, under the direction of the board of supervisors. The board of supervisors may also expend those funds for educational and youth activities relating to fish and game. These funds shall not be expended for the protection or preservation of domestic livestock or poultry or for predator control unless the action is undertaken to benefit wildlife.

CHAPTER 532

An act to amend Section 13470.5 of the Business and Professions Code, relating to motor vehicle fuel.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 13470.5 of the Business and Professions Code is amended to read:

13470.5. Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor vehicle fuel from any place of business in this state by use of or through or from any dispensing apparatus and displaying any sign showing the actual total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

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

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 533

An act to add Section 7232 to the Fish and Game Code, relating to fish.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 7232 is added to the Fish and Game Code, to read:

7232. Notwithstanding Section 7121 any offal from a fish taken under a sport fishing license which is delivered by the license holder to a fish canner or fish processor may be processed, used, or sold by that fish canner or fish processor.

Nothing in this section authorizes a holder of a sport fishing license to sell, or a fish canner or fish processor to purchase from a holder of a sport fishing license, any fish, or any portion thereof, taken under a sport fishing license.

CHAPTER 534

An act to amend Section 2773.5 of the Public Utilities Code, relating to gas.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 2773.5 of the Public Utilities Code is amended to read:

2773.5. Notwithstanding any rule, order, or decision of the commission to the contrary, industrial or commercial gas customers shall not be required to maintain any alternative fuel capability with respect to equipment which uses gas to generate steam for enhanced crude oil recovery or which uses gas for purposes of cogeneration. Nothing in this section shall require the commission to assign these industrial customers any higher gas priority as a result of the elimination of this alternative fuel requirement.

CHAPTER 535

An act to amend Section 1328.6 of the Penal Code, relating to witnesses.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1328.6 of the Penal Code is amended to read:

1328.6. Whenever any criminalist, questioned document examiner, latent print analyst, polygraph examiner employed by the Department of Justice, a police department, a sheriff's office, or a district attorney's office, an intelligence specialist or other technical specialist employed by the Department of Justice, a custodial officer employed in a local detention facility, or an employee of the county welfare department or the department which administers the county public social services program, is a witness before any court or magistrate in any criminal action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her official duties, where his or her testimony would become a matter of public record, and where he or she is required to state the place of his or her residence, he or she need not state the place of his or her residence, but in lieu thereof, he or she may state his or her business address, unless the court finds, after an in camera hearing, that the probative value of the witness's residential address outweighs the creation of substantial danger to the witness.

Nothing in this section shall abridge or limit a defendant's right to discover or investigate this information. This section is not intended to apply to confidential informants.

CHAPTER 536

An act to amend Section 48900 of the Education Code, relating to schools.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 48900 of the Education Code is amended to read:

48900. A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the

principal of the school in which the pupil is enrolled determines that the pupil has:

(a) Caused, attempted to cause, or threatened to cause physical injury to another person.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, except as provided in Section 48901.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11364 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or

otherwise absent from school activities.

CHAPTER 537

An act to amend Sections 315, 404, 405, 406, 407, 409, 409.1, 410, 412, 413, 1030, 1032.5, 1034, 1092, 1136, 1179, 1179.5, 1180.5, 1206, 1221, 1222, 1223, 1224, 1264, 1328, 1332, 1334, 1335, 1336, 1337, 1377, 1379, 1380, 1951, 1952, 1953, 1957.5, 1959, 2707.2, 2712, 2712.5, 2737, 2739, 2740, 3265, 3272, 3654.4, 3655, 3701, 4655, and 4701 of the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984]

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

SECTION 1. Section 315 of the Unemployment Insurance Code is amended to read:

315. The appeals division within the department includes the appeals board and its clerical staff and assistants and the administrative law judges and their supervisors and clerical staff and assistants.

SEC. 2. Section 404 of the Unemployment Insurance Code is amended to read:

404. The appeals board, or the executive officer subject to its direction and control to whom it delegates such responsibility, shall appoint and direct the activities of one or more impartial administrative law judges who shall hear and render a decision in every matter in which a petition is filed with, or an appeal is taken to, an administrative law judge as provided in this division. The compensation of the administrative law judges shall be fixed by the State Personnel Board at a rate comparable to that of other administrative law judges or hearing officers in state service whose duties and responsibilities are comparable, without regard to whether such other positions have membership in the State Bar of California as a prerequisite to appointment. No administrative law judge shall participate in any case in which he is an interested party.

SEC. 3. Section 405 of the Unemployment Insurance Code is amended to read:

405. The appeals board shall appoint a chief administrative law judge who shall be a member in good standing of the State Bar of California.

SEC. 4. Section 406 of the Unemployment Insurance Code is amended to read:

406. The duties of the chief administrative law judge include:

(a) Serving as the chief executive of the board in the administration of the activities of administrative law judges and their staffs.

(b) Maintaining a continuous review of the decisions of administrative law judges from which no appeal is taken to uncover decisions which appear inconsistent with the law, with established judicial decisions, with prior decisions of the board or with each other and recommending such cases to the appeals board for certification to itself for a further hearing.

SEC. 5. Section 407 of the Unemployment Insurance Code is amended to read:

407. In any case before it, the appeals board may delegate to any one of its members or to a special examiner or administrative law judge the taking or hearing of evidence. The appeals board and its duly authorized representatives in the performance of its duties under this division shall have the powers of a head of a department as set forth in Sections 11180 to 11191, inclusive, of the Government Code.

SEC. 6. Section 409 of the Unemployment Insurance Code is amended to read:

409. The chairman shall assign cases before the board to any two members thereof for consideration and decision. Assignments by the chairman of members to such cases shall be rotated on such a basis so as to equalize the workload of the members but with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continuous composition of members. Except as otherwise provided, the decision of the two members assigned the case shall be the decision of the appeals board. In the event that the two members do not concur in the decision, the chairman or another member of the board designated by the chairman shall be assigned to the panel and shall resolve the impasse. A case shall be considered and decided by the appeals board acting as a whole at the request of any member of the appeals board.

The appeals board shall meet as a whole at such times as the chairman may direct to consider and pass on such matters as the chairman may bring before it, and to consider and decide cases which present issues of first impression or which will enable the appeals board to achieve uniformity of decisions by the respective members.

The appeals board, acting as a whole, may designate certain of its decisions as precedents. The appeals board, acting as a whole, may on its own motion reconsider a previously issued decision solely to determine whether or not such decision shall be designated as a precedent decision. Decisions of the appeals board acting as a whole shall be by a majority vote of its members. The director and the appeals board administrative law judges shall be controlled by such precedents except as modified by judicial review.

The decisions of the appeals board shall contain a statement of the facts upon which the decision is based, and a statement of the decision itself and the reasons therefor. If the appeals board issues decisions other than those designated as precedent decisions, anything incorporated in such decisions shall be physically attached

to and be made a part of such decisions. All decisions designated as precedents shall be published in such manner as to make them available for public use. The appeals board may make such reasonable charge for publications as it deems necessary to defray the cost of their publication and distribution.

SEC. 7. Section 409.1 of the Unemployment Insurance Code is amended to read:

409.1. If a final judgment of a court of competent jurisdiction reverses or declares invalid a precedent decision of the appeals board issued under Section 409 or this section, the appeals board, acting as a whole, shall promptly modify the precedent decision to conform in all respects to the judgment of the court. The modified precedent decision shall supersede the prior precedent decision for all purposes. The appeals board shall promptly notify the director, the administrative law judges of the appeals board, and all other subscribers to the precedent decisions, of the modified precedent decision.

SEC. 8. Section 410 of the Unemployment Insurance Code is amended to read:

410. A decision of the appeals board is final, except for such action as may be taken by a judicial tribunal as permitted or required by law.

A decision of the appeals board is binding on the director with respect to the parties involved in the particular appeal.

The director shall have the right to seek judicial review from an appeals board decision irrespective of whether or not he or she appeared or participated in the appeal to the administrative law judge or to the appeals board.

Notwithstanding any other provision of law, the right of the director, or of any other party except as provided by Sections 1241, 1243, and 5313, to seek judicial review from an appeals board decision shall be exercised not later than six months after the date of the decision of the appeals board or the date on which the decision is designated as a precedent decision, whichever is later.

The appeals board shall attach to all of its decisions where a request for review may be taken, an explanation of the party's right to seek such review.

SEC. 9. Section 412 of the Unemployment Insurance Code is amended to read:

412. (a) The appeals board acting as a whole may, by notice mailed to the director and the parties prior to the mailing of an administrative law judge's decision on an appeal or petition under this division pending before any administrative law judge, on its own motion either:

(1) Transfer the proceedings to another administrative law judge; or

(2) Remove the proceedings to itself for review and decision.

(b) If the appeals board removes any proceedings to itself for review and decision pursuant to this section, the appeals board may

order the taking of additional evidence and may affirm, reverse, modify, or set aside any findings or action of the department from which the appeal or petition to the administrative law judge was taken in the proceedings. The appeals board shall promptly notify the department and the parties to the proceedings of its order or decision.

SEC. 10. Section 413 of the Unemployment Insurance Code is amended to read:

413. (a) The appeals board acting as a whole may, by notice mailed to the director and the parties not later than 30 days after the mailing of an administrative law judge's decision on an appeal or petition under this division to the administrative law judge, on its own motion either:

(1) Set aside the decision of the administrative law judge and remand the proceedings to another administrative law judge for review and decision; or

(2) Remove the proceedings to itself for review and decision.

(b) If the appeals board removes any proceedings to itself for review and decision pursuant to this section, the appeals board may order the taking of additional evidence and may affirm, reverse, modify or set aside the decision of the administrative law judge. The appeals board shall promptly notify the department and the parties to the proceedings of its order or decision.

(c) Notwithstanding any other provision of this division, no decision of an administrative law judge under this division shall be final if the appeals board pursuant to this section sets aside such decision or removes the proceedings to itself for review and decision.

SEC. 11. Section 1030 of the Unemployment Insurance Code is amended to read:

1030. (a) Any employer who is entitled under Section 1327 to receive notice of the filing of a new or additional claim may, within 10 days after mailing of such notice, submit to the department any facts within its possession disclosing whether the claimant left such employer's employ voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) Any base period employer who is not entitled under Section 1327 to receive notice of the filing of a new or additional claim and is entitled under Section 1329 to receive notice of computation may, within 15 days after mailing of such notice of computation, submit to

the department any facts within its possession disclosing whether the claimant left such employer's employ voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment. The period during which the employer may submit such facts may be extended by the director for good cause.

(c) The department shall consider such facts together with any information in its possession. If the employer is entitled to a ruling under subdivision (b) or to a determination under Section 1328, the department shall promptly notify the employer of its ruling as to the cause of the termination of the claimant's employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of such determination.

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

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

SEC. 12. Section 1032.5 of the Unemployment Insurance Code is amended to read:

1032.5. (a) Any base period employer may, within 15 days after mailing of a notice of computation under Section 1329, submit to the department facts within its possession disclosing that the individual claiming benefits is rendering services for that employer in less than

full-time work, and that the individual has continuously, commencing in or prior to the beginning of the base period, rendered services for that employer in such less than full-time work.

(b) The department shall consider facts submitted under subdivision (a) of this section together with any information in its possession and promptly notify the employer of its ruling. If the department finds that an individual is, under Section 1252, unemployed in any week on the basis of his or her having less than full-time work, and that the employer submitting facts under this section is a base period employer for whom the individual has continuously, commencing in or prior to the beginning of the base period, rendered services in such less than full-time work, that employer's account shall not be charged, except as provided by Section 1026, for benefits paid the individual in any week in which such wages are payable by that employer to the individual. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of the notice of the ruling or reconsidered ruling.

SEC. 13. Section 1034 of the Unemployment Insurance Code is amended to read:

1034. The employer within 60 days after the date of mailing of any statement of charges or credits and charges to his account, or within an additional period not exceeding 60 days which may for good cause be granted by the director, may file with the director a written protest on any item shown thereon. The protest shall set forth the specific grounds on which it is made. No protest may be made on the ground that a claimant was ineligible for a benefit payment where the employer was notified as required by this division and any authorized regulation of the filing of a claim for such benefits or of a determination of the claimant's eligibility therefor and the employer failed to file a timely appeal on such benefit claim, or a final decision of an administrative law judge or of the appeals board affirmed the payment of such benefits. Except as to corrections made by the director as provided in Section 1036, the contribution rate and other items shown on any such statement of charges or statement of account shall be final unless a protest is filed within the time prescribed in this section.

SEC. 14. Section 1092 of the Unemployment Insurance Code is amended to read:

1092. Every employing unit shall furnish to the director, administrative law judge, or deputy, upon demand, a sworn

statement of the matters contained in the records required by Section 1085. If such records are kept pursuant to contract with a financial institution as defined in Section 7465 of the Government Code, the employing unit shall also furnish to the director or the director's authorized representative an authorization for disclosure of such account or accounts. The authorization for disclosure shall be that provided for in Section 7473 of the Government Code. Such records shall be open to inspection and shall be subject to being copied by the director or his authorized representative at any time during the business hours of the employing unit. Any claimant or his authorized representative at a hearing before a deputy or administrative law judge or the appeals board shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

SEC. 15. Section 1136 of the Unemployment Insurance Code is amended to read:

1136. If the director finds that an assessment or portion thereof has been erroneously made, he may cancel the assessment or portion thereof in the following cases:

(a) Where no petition for reassessment has been filed.

(b) Where a petition for reassessment is filed, if the cancellation is made prior to the mailing of a decision of the administrative law judge.

(c) Where a petition for reassessment has been filed and an order or decision of an administrative law judge or of the appeals board has been issued on any grounds not on the merits, if the cancellation is approved by the appeals board.

SEC. 16. Section 1179 of the Unemployment Insurance Code is amended to read:

1179. Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded. A waiver of any demand against the state or the director on account of overpayment shall apply when any of the following occur:

(a) Failure to file a claim with the director within the time prescribed by Section 1178.

(b) Failure, after denial of a claim by the director, to file a petition for review with an administrative law judge within the time prescribed by Section 1222.

(c) Failure to file an appeal from an adverse administrative law judge's decision to the appeals board within the time prescribed by Section 1224.

SEC. 17. Section 1179.5 of the Unemployment Insurance Code is amended to read:

1179.5. If an employing unit pays the amount of contributions, penalties, and interest assessed under Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division:

(a) Before an administrative law judge issues his decision upon a petition for reassessment filed on such assessment, the payment shall constitute the filing of a claim for refund, the claim for refund shall

be deemed denied by the director, and the petition for reassessment shall automatically become a petition to review a denial of the claim for refund.

(b) Before the appeals board issues its decision upon an appeal from the administrative law judge's decision on a petition for reassessment, the payment shall constitute the filing of a claim for refund, the claim shall be deemed denied by the director, the denial shall be deemed affirmed by the administrative law judge, and the appeal shall automatically become an appeal from an administrative law judge's decision upholding the director's denial of the claim for refund.

SEC. 18. Section 1180.5 of the Unemployment Insurance Code is amended to read:

1180.5. (a) If the director finds that a claim for refund or credit or portion thereof, including a claim deemed made and denied pursuant to subdivision (a) of Section 1179.5, has been erroneously denied, he or she may reverse the denial of the claim or portion thereof in the following cases:

(1) Where no petition for review of denial of the claim has been filed or deemed filed, if the reversal is made prior to the expiration of the period within which a petition for review may be filed under Section 1222.

(2) Where a petition for review of denial of the claim is filed or deemed filed, if the reversal is made prior to the mailing of a decision by the administrative law judge.

(b) The director shall give notice pursuant to Section 1206 of the reversal of an erroneous denial of a claim or portion thereof under this section. With respect to that portion of any such claim which remains denied by the director, the notice of reversal shall also constitute a notice of denial of such portion and Sections 1222, 1223, 1224, 1241, and 1242 shall apply.

SEC. 19. Section 1206 of the Unemployment Insurance Code is amended to read:

1206. A notice given under this chapter by the director, an administrative law judge, or the appeals board:

(a) May be served personally or by mail, except that service by mail given by the director shall be made by certified mail in the following cases:

(1) Under Sections 1137 and 1221.

(2) Under Sections 1131, 1142, 1184, 1733, and 1735 if the assessment is in excess of one thousand dollars ($1,000).

(3) Under Section 1180 if the denial of claim for refund or credit is in excess of one thousand dollars ($1,000).

(b) If served by mail, such notice shall be:

(1) Addressed to the employing unit or person at his or her address as it appears on the records of the department.

(2) Complete at the time of deposit in the United States mail.

(3) Made pursuant to Section 1013 of the Code of Civil Procedure, excepting service of notice of a hearing before or an order or a

decision of an administrative law judge or of the appeals board in transfer of reserve account, reassessment and refund matters.

SEC. 20. Section 1221 of the Unemployment Insurance Code is amended to read:

1221. Within 15 days of service of a notice of jeopardy assessment under Section 1137, the employer may file a petition for reassessment with an administrative law judge. If the amount of contributions, interest, and penalty specified in the jeopardy assessment is not paid within 15 days of service of notice of the assessment, such assessment is final unless a petition for reassessment is filed within that time. The petition for reassessment shall not be valid unless the employer deposits with the director, within 15 days of the service upon the employer of notice of the assessment accompanied by demand for deposit, such security as the director deems necessary to insure compliance with this division. Security so deposited may be sold by the director at public sale if it becomes necessary to do so to recover any contributions, interest or penalty due. The director shall give notice of the sale, pursuant to Section 1206, to the person who deposited the securities. Upon any such sale, the surplus, if any, above the amounts due under this division shall be returned to the person who deposited the security. If a valid petition for reassessment is filed within the time prescribed, Sections 1223 and 1224 shall apply.

SEC. 21. Section 1222 of the Unemployment Insurance Code is amended to read:

1222. Within 30 days of service of any notice of assessment or denial of claim for refund or credit under Sections 803, 821, 844, or 991, or of any notice under Sections 704.1, 1035, 1055, 1131, 1142, 1180, 1184, 1733, and 1735, any employing unit or other person given such notice, or any employing unit affected by a granting or denial of a transfer of reserve account, may file a petition for review or reassessment with an administrative law judge. The administrative law judge may for good cause grant an additional 30 days for the filing of a petition. If a petition for reassessment is not filed within the 30-day period, or within the additional period granted by the administrative law judge, an assessment is final at the expiration of the period. If a petition for review of a termination of elective coverage under Section 704.1 is not filed within the 30-day period, or within the additional period granted by the administrative law judge, the termination is final at the expiration of the period. If the director fails to serve notice of his or her action within 60 days after a claim for refund or credit is filed, the person or employing unit may consider the claim denied and file a petition with a an administrative law judge.

SEC. 22. Section 1223 of the Unemployment Insurance Code is amended to read:

1223. If any petition is filed under this article within the time and meeting requirements prescribed, an administrative law judge shall review the matter and, if requested by the petitioner, shall grant a

hearing. A hearing is not required on a petition if a prior hearing has been afforded the petitioner involving the same issues, but regardless of any prior proceedings, if the petitioner files an affidavit setting forth new and additional evidence in support of his or her petition, an administrative law judge may grant an additional hearing. The administrative law judge shall give at least 20 days' notice of the time and place of the hearing on a petition by delivering or mailing the notice to the petitioner and to the director. The time of notice may be shortened with the consent of the parties. The administrative law judge shall render a decision in the matter and may decrease or increase the amount of any assessment under review. Every employing unit or person which is a party to the petition and the director shall be promptly notified of the administrative law judge's decision, together with his or her reasons therefor.

SEC. 23. Section 1224 of the Unemployment Insurance Code is amended to read:

1224. (a) The petitioner or the director may, within 30 days after the service of notice of an administrative law judge's decision under this article, file an appeal to the appeals board. The appeals board may for good cause extend the appeal period. If the administrative law judge fails to serve notice of the decision on a petition for review of denial of a claim for refund or credit within 60 days after a petition is filed, the petitioner may consider the petition denied and file an appeal with the appeals board. If an appeal is not filed within the 30-day period or within the additional period granted by the appeals board:

(1) The decision of the administrative law judge upon the petition is final in every case at the expiration of the period.

(2) Any assessment involved is final at the expiration of the period except that in cases where a decision of the administrative law judge requires an adjustment of an assessment by granting a portion of a petition or by increasing an assessment, the assessment is final 30 days after service upon the petitioner by the director of a statement of amounts due setting forth the adjusted liability pursuant to the decision.

(b) In the event of an appeal to the appeals board, it may decrease or increase the amount of any assessment involved. In cases where an order or decision of the appeals board requires an adjustment of an assessment by granting a portion of a petition or by increasing an assessment, the order or decision and the assessment become final 30 days after service upon the petitioner by the director of a statement of amounts due setting forth the adjusted liability pursuant to the order or decision of the appeals board. In all other cases, the order or decision of the appeals board and any assessment become final 30 days after service upon the petitioner of notice of the order or decision.

SEC. 24. Section 1264 of the Unemployment Insurance Code is amended to read:

1264. (a) Unemployment compensation benefits, extended duration benefits, and federal-state extended benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act.

(b) Any data or information required of individuals applying for benefits specified by subdivision (a) to determine whether such benefits are not payable to them because of their alien status shall be uniformly required from all applicants for such benefits.

(c) In the case of an individual whose application for benefits specified by subdivision (a) would otherwise be approved, no determination by the department, an administrative law judge, or the appeals board that such benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

SEC. 25. Section 1328 of the Unemployment Insurance Code is amended to read:

1328. The department shall consider the facts submitted by an employer pursuant to Section 1327 and, if benefits are claimed subsequent to the filing of the new or additional claim, make a determination as to the claimant's eligibility for benefits. The department shall promptly notify the claimant and any employer who prior to the determination has submitted any facts or given any notice pursuant to Section 1327 or this section and authorized regulations of the determination or reconsidered determination and the reasons therefor. If after notice of a determination or reconsidered determination the employing unit acquires knowledge of facts which may affect the eligibility of the claimant and such facts could not reasonably have been known within the 10-day period provided by Section 1327, the employing unit shall within 10 days of acquiring such knowledge submit such facts to the department, and such 10-day period may be extended for good cause. The claimant and any such employer may appeal from a determination or reconsidered determination to an administrative law judge within 20 days from mailing or personal service of notice of the determination or reconsidered determination. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal.

SEC. 26. Section 1332 of the Unemployment Insurance Code is amended to read:

1332. (a) The department may for good cause reconsider any determination within 15 days after an appeal to an administrative

law judge is filed. If no appeal is filed, the department may for good cause reconsider any determination within 20 days after mailing or personal service of the notice of determination. The department may, if a claimant has not filed an appeal to an administrative law judge from any determination which finds that a claimant is ineligible or disqualified, for good cause also reconsider the determination during the benefit year or extended duration period or extended benefit period to which the determination relates. The department shall give notice of any reconsidered determination to the claimant and any employer or employing unit which received notice under Sections 1328 and 1331 and the claimant or employer may appeal therefrom in the manner prescribed in Section 1328.

The director shall designate individuals to review and reconsider appealed determinations. No individual designated shall be the same individual who made the initial determination in the same matter.

(b) The department may for good cause reconsider any computation or recomputation provided for in this article during the benefit year or extended duration period to which the notice of computation or recomputation relates, except that no recomputation may be considered with respect to any issue considered or under consideration in an appeal taken from a denial of recomputation. The department shall promptly notify the claimant and each of the claimant's base period employers of the recomputation. The claimant and any base period employer may protest the accuracy of the recomputation as prescribed in Section 1330.

SEC. 27. Section 1334 of the Unemployment Insurance Code is amended to read:

1334. An administrative law judge after affording a reasonable opportunity for fair hearing, shall, unless such appeal is withdrawn, affirm, reverse, modify, or set aside any determination which is appealed under this article. The claimant, any employer becoming a party to the appeal by submitting a protest or information pursuant to Sections 1326 to 1333, inclusive, of this article, and the director shall be promptly notified in writing of the administrative law judge's decision, together with his reasons therefor. The decision shall be final unless, within 20 days after mailing of such decision, further appeal is initiated to the appeals board pursuant to Section 1336. The 20-day limitation may be extended for good cause.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 28. Section 1335 of the Unemployment Insurance Code is amended to read:

1335. If an appeal is filed, benefits with respect to the period prior to the final decision on the appeal shall be paid only after the decision, except that:

(a) If benefits for any week are payable in accordance with a determination by the department irrespective of any decision on the issues set forth in the appeal, such benefits shall be promptly paid regardless of such appeal.

(b) If an administrative law judge affirms a determination allowing benefits, such benefits shall be promptly paid regardless of any appeal which may thereafter be taken, and regardless of any action taken under Section 1336 or otherwise by the director, appeals board, or other administrative body or by any court.

If the determination is finally reversed, no employer's account shall be charged with benefits paid because of that determination, except as provided in Section 1026.

(c) If benefits for any week are payable in accordance with a determination by the department, or an administrative law judge issues a decision allowing benefits, the benefits shall be promptly paid regardless of any appeal, and regardless of any action taken by the appeals board pursuant to Section 412 or 413. If the determination of the department or the decision of the administrative law judge is finally reversed, no employer's reserve account shall be charged with benefits paid pursuant to this subdivision, except as provided in Section 1026.

SEC. 29. Section 1336 of the Unemployment Insurance Code is amended to read:

1336. The director or any party to a decision by an administrative law judge may appeal to the appeals board from the decision. The appeals board may order the taking of additional evidence and may affirm, reverse, modify, or set aside the decision of the administrative law judge. The appeals board shall promptly notify the director and the parties to any appeal of its order or decision.

SEC. 30. Section 1337 of the Unemployment Insurance Code is amended to read:

1337. The decision of the appeals board on an appeal from the decision of an administrative law judge must be rendered within 60 days after the filing of the appeal unless the board requires the taking of further evidence. If the appeals board requires the taking of further evidence, the hearing shall be commenced within 60 days after the filing of the appeal, and the decision of the board shall be filed within 60 days after completion of the hearing.

SEC. 31. Section 1377 of the Unemployment Insurance Code is amended to read:

1377. Within 20 days from the date of mailing or serving of the notice of overpayment, the person affected may file an appeal to an administrative law judge. The director shall be an interested party to any such appeal. The administrative law judge, after affording reasonable opportunity for a fair hearing, shall unless the appeal is withdrawn, affirm, reverse, modify, or set aside the findings set forth in the notice of overpayment. The party and the director shall be notified of the administrative law judge's decision, together with his reasons therefor, which shall be final unless within 20 days from the date of notification or mailing of the decision a further appeal is initiated to the appeals board pursuant to Section 1336. The 20-day period for an appeal to the administrative law judge or to the appeals board may be extended for good cause.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 32. Section 1379 of the Unemployment Insurance Code is amended to read:

1379. The Director of Employment Development, subject to the provisions of this article, may do any or all of the following in the recovery of overpayments of unemployment compensation benefits:

(a) File a civil action against the liable person for the recovery of the amount of the overpayment within one year after any of the following:

(1) The mailing or personal service of the notice of overpayment determination if the person affected does not file an appeal to an administrative law judge.

(2) The mailing of the decision of the administrative law judge if the person affected does not initiate a further appeal to the appeals board.

(3) The date of the decision of the appeals board.

(b) Offset the amount of the overpayment received by the liable person against any amount of benefits to which he may become entitled under this division within six years of the date of the mailing or personal service of the notice of overpayment determination.

SEC. 33. Section 1380 of the Unemployment Insurance Code is amended to read:

1380. No person shall be liable for the amount of benefits received where the benefits were paid pursuant to an administrative law judge's decision which affirmed an initial determination or in accordance with a final decision of the appeals board, regardless of any further appeal. An employer's experience rating account shall not be charged with any benefits erroneously or unlawfully paid, except as provided in Section 1026.

SEC. 34. Section 1951 of the Unemployment Insurance Code is amended to read:

1951. The manner in which disputed claims, appeals and petitions shall be presented, the reports required thereon from the claimant and from any employing unit and the conduct of hearings and appeals shall be in accordance with rules prescribed by the appeals board. The appeals board shall require administrative law judges to consolidate for hearing cases with respect to which the alleged facts and the points of law are the same.

SEC. 35. Section 1952 of the Unemployment Insurance Code is amended to read:

1952. The appeals board and its representatives and administrative law judges are not bound by common law or statutory rules of evidence or by technical or formal rules of procedure but may conduct the hearings and appeals in such manner as to ascertain the substantial rights of the parties. A full and complete record shall be kept of all proceedings in connection with disputed claims. All testimony at any hearing held in this state upon a disputed claim arising under this division shall be recorded and, when feasible, by

a reporter in shorthand or by machine writing. The testimony need not be transcribed unless the disputed claim is further appealed.

SEC. 36. Section 1953 of the Unemployment Insurance Code is amended to read:

1953. In any proceeding, hearing, investigation or in the discharge of any duties imposed under this division any member of the appeals board, an administrative law judge and any authorized employee designated by it may administer oaths, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records.

SEC. 37. Section 1957.5 of the Unemployment Insurance Code is amended to read:

1957.5. The department shall make available without charge printed forms for the use of any individual claiming benefits to authorize a counsel or an agent to represent him in any proceedings before the appeals board or its administrative law judges or authorized representatives. If any claimant files an authorization for such representation with the appeals board or its administrative law judges, the appeals board or its administrative law judges shall, upon request by the claimant, serve copies of all notices and transcript pertinent to such proceedings on the claimant and his counsel or agent.

SEC. 38. Section 1959 of the Unemployment Insurance Code is amended to read:

1959. For the purpose of any investigation, hearing or proceeding under this division, the appeals board may delegate its power in relation thereto to any deputy, administrative law judge, or other person properly authorized in writing by it.

SEC. 39. Section 2707.2 of the Unemployment Insurance Code is amended to read:

2707.2. The department shall consider the facts submitted by the employer pursuant to Section 2707.1 and make a determination as to the eligibility of the claimant for benefits. The department shall promptly notify the claimant of the determination and the reasons therefor. The claimant may appeal therefrom to an administrative law judge within 20 days from mailing or personal service of the notice of determination. The 20-day period may be extended for good cause. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 40. Section 2712 of the Unemployment Insurance Code is amended to read:

2712. Whenever an individual is entitled to benefits under this part but there is a dispute whether such benefits are payable from the Disability Fund or from one or another voluntary plan, benefits shall be paid to the individual, pursuant to authorized regulations, from the source against which his claim was first filed, at not less than the Disability Fund rate, pending the determination of the dispute.

The appeals board may prescribe by regulation the time, manner, method, and procedure through which such disputes may be determined by administrative law judges and the appeals board. If it is finally determined that the benefits should have been paid from one of said sources other than the one which paid the benefits, reimbursement shall be promptly made from the Disability Fund or the voluntary plan, as the case may be, and the claimant shall be promptly paid the accumulated excess, if any, to which he is entitled. Reimbursement shall also be made to the extent of actual liability for benefits from one to another of the above mentioned sources when it is determined that benefits have been paid in error from one source which should have been paid from another.

SEC. 41. Section 2712.5 of the Unemployment Insurance Code is amended to read:

2712.5. (a) If, in a disputed coverage proceeding under Section 2712 a final decision of an administrative law judge or of the appeals board finds that an employer or insurer shall reimburse the Disability Fund and the employer or insurer fails to pay all or any part of the reimbursement within 15 days after the mailing of the final decision of an administrative law judge or of the appeals board, the director shall assess the unpaid amount against the employer or the insurer. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions shall apply to the recovery of the unpaid amount. The provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of unpaid amounts under this section. Amounts so collected shall be deposited in the Disability Fund.

(b) The provisions of Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 of this division shall apply to amounts collected under this section and to amounts reimbursed to the Disability Fund after a final decision by an administrative law judge or the appeals board in a disputed coverage proceeding under Section 2712.

SEC. 42. Section 2737 of the Unemployment Insurance Code is amended to read:

2737. Within 20 days from the date of mailing or serving of the notice of overpayment determination, the person affected may file an appeal to an administrative law judge. The director shall be an interested party to any such appeal. The administrative law judge, after affording reasonable opportunity for a fair hearing, shall unless the appeal is withdrawn, affirm, reverse, modify, or set aside the findings set forth in the notice of overpayment determination. The party and the director shall be notified of the administrative law judge's decision, together with his reasons therefor, which shall be final unless within 20 days from the date of notification or mailing of the decision a further appeal is initiated to the appeals board pursuant to Section 1336. The 20-day period for an appeal to the administrative law judge or to the appeals board may be extended for good cause.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 43. Section 2739 of the Unemployment Insurance Code is amended to read:

2739. The Director of Employment Development, subject to the provisions of this article, may do any or all of the following in the recovery of overpayments of disability benefits:

(a) File a civil action against the liable person for the recovery of the amount of the overpayment within one year after any of the following:

(1) The mailing or personal service of the notice of overpayment determination if the person affected does not file an appeal to an administrative law judge.

(2) The mailing of the decision of the administrative law judge if the person affected does not initiate a further appeal to the appeals board.

(3) The date of the decision of the appeals board.

(b) Offset the amount of the overpayment received by the liable person against any amount of disability benefits to which he may become entitled within any of the following periods:

(1) The current disability benefit period.

(2) One year from the beginning date of any disability benefit period which begins during the three-year period next succeeding the date of the mailing or personal service of the notice of overpayment determination.

SEC. 44. Section 2740 of the Unemployment Insurance Code is amended to read:

2740. No person shall be liable for the amount of benefits received where the benefits were paid pursuant to an administrative law judge's decision which affirmed an initial determination or in accordance with a final decision of the appeals board, regardless of any further appeal.

SEC. 45. Section 3265 of the Unemployment Insurance Code is amended to read:

3265. (a) If, on appeal, it is decided that an employee is entitled to receive disability benefits under an approved voluntary plan and the employer or insurer fails to pay the same within 15 days after notice of a decision by an administrative law judge or the appeals board, the director shall pay such benefits and shall assess the amount thereof against the employer or the insurer, and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

(b) If an approved voluntary plan is not terminated because of the enactment of any law increasing the benefit amounts provided by Sections 2653 and 2655, and the employer or insurer fails to pay such

increase under the plan, the director shall pay such benefits to an employee, if otherwise eligible, and shall assess the amount thereof against the employer or the insurer and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

SEC. 46. Section 3272 of the Unemployment Insurance Code is amended to read:

3272. The provisions of Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 of this division shall apply to amounts collected under Sections 3252, 3260, and 3265, to amounts remitted to the Disability Fund under Section 3260, and to amounts paid to an employee by an employer or insurer after a final decision on appeal under Section 3264 to an administrative law judge or the appeals board that the employee is entitled to disability benefits.

SEC. 47. Section 3654.4 of the Unemployment Insurance Code is amended to read:

3654.4. The department shall consider the facts submitted by an employing unit pursuant to Section 3654.1 and make a determination as to the exhaustee's eligibility for extended duration benefits under subdivision (e) of Section 3552. The department shall promptly notify the exhaustee and any employing unit who prior to the determination has submitted any facts pursuant to Section 3654.1 of the determination and the reasons therefor. The exhaustee and any such employing unit may appeal therefrom to an administrative law judge within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 48. Section 3655 of the Unemployment Insurance Code is amended to read:

3655. The Employment Development Department shall consider the facts submitted by an employer pursuant to Section 3654 and, if benefits are claimed subsequent to the filing of the extended duration benefits claim, make a determination as to the exhaustee's eligibility for the extended duration benefits. The Employment Development Department shall promptly notify the exhaustee and any employer who prior to the determination has submitted any facts pursuant to Section 3654 of the determination and the reasons therefor. The exhaustee and any such employer may appeal therefrom to an administrative law judge within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The Director of Employment Development shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 49. Section 3701 of the Unemployment Insurance Code is amended to read:

3701. (a) Any employer who is entitled under Section 3654 to notice of the filing of a primary claim or additional claim and who, within 10 days after mailing of such notice, submits to the department any facts within its possession disclosing whether the exhaustee left the most recent employment with such employer voluntarily and without good cause or was discharged from such employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) The department shall consider such facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 3655, the department shall promptly notify the employer of its ruling as to the cause of the termination of the exhaustee's most recent employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which related to a determination is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of such determination.

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

(d) An individual whose employment is terminated under the

compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

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

SEC. 50. Section 4655 of the Unemployment Insurance Code is amended to read:

4655. The Employment Development Department shall consider the facts submitted by an employer pursuant to Section 4654 and, if benefits are claimed subsequent to the filing of the federal-state extended benefits claim, make a determination as to the individual's eligibility for the federal-state extended benefits. The Employment Development Department shall promptly notify the individual and any employer who prior to the determination has submitted any facts pursuant to Section 4654 of the determination and the reasons therefor. The individual and any such employer may appeal therefrom to an administrative law judge within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The Director of Employment Development shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 51. Section 4701 of the Unemployment Insurance Code is amended to read:

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

(b) The department shall consider such facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 4655, the department shall promptly issue to the employer its ruling as to the cause of the termination of the individual's most recent employment. The employer may appeal from a ruling or reconsidered ruling to an

administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of such determination.

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

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

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

CHAPTER 538

An act to amend Sections 86, 485.610, 486.110, 488.080, 488.455, 488.460, 488.480, 488.600, 489.210, 491.140, 491.410, 491.430, 515.010, 515.020, 515.030, 681.030, 695.010, 697.340, 697.390, 699.080, 700.140, 700.150, 700.190, 704.740, 704.780, 706.101, 708.110, 708.150, 708.450, 708.530, 729.060, and 995.930 of, to add Sections 491.415, 491.470, 701.070, 704.995, 706.108, and 996.475 to, to repeal and add Sections 488.465, 697.590, and 700.160 of, and to repeal Sections 700.165, and 700.167 of, and Chapter 19 (commencing with Section 693.010) of Division 1 of Title 9 of Part 2 of, the Code of Civil Procedure, to amend Section 9301 of the Commercial Code, and to amend Section 26830 of, and to repeal Section 26735 of, the Government Code, relating to creditor's remedies.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property

by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the

legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of

cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.2. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets

of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary

injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.3. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000);

in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action

of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 1.4. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars

($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make

any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 1.5. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets

of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where

necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977-78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 1.6. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the

tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 1.7. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets

of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where

necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in the court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(11) In actions to enforce the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) where civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. Actions in which a civil penalty of more than fifteen thousand dollars ($15,000) is sought shall be transferred to the superior court and may be consolidated with any other action pending in the court, on the motion of either party.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of the municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time those changes become operative.

SEC. 2. Section 485.610 of the Code of Civil Procedure is amended to read:

485.610. (a) The defendant may claim an exemption as to real or personal property levied upon pursuant to a writ of attachment issued under this chapter by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9, except that the defendant shall claim the exemption as to personal property not later than 30 days after the levying officer serves the defendant with the notice of attachment describing such property and may claim an exemption for real

property within the time provided in Section 487.030. For this purpose, references in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 to the "judgment debtor" shall be deemed references to the defendant, and references to the "judgment creditor" shall be deemed references to the plaintiff.

(b) The defendant may claim the exemption provided by subdivision (b) of Section 487.020 within the time provided by subdivision (a) of this section either (1) by following the procedure set forth in Article 2 (commencing with Section 703.510) of Chapter 4 of Division 2 of Title 9 or (2) by following the procedure set forth in subdivision (c) of Section 482.100 except that the requirement of showing changed circumstances under subdivision (a) of Section 482.100 does not apply.

SEC. 2.5. Section 486.110 of the Code of Civil Procedure is amended to read:

486.110. (a) The service upon the defendant of a temporary protective order pursuant to Section 486.080 creates a lien upon any property, or the proceeds thereof, which is described in the order, is owned by the defendant at the time of such service, and is subject to attachment pursuant to this title. The lien continues on property subject to the lien, notwithstanding the transfer or encumbrance of the property subject to the lien, unless the person receiving the property, whether real or personal, is a person listed in Section 697.740.

(b) The lien terminates upon the date of expiration of the temporary protective order except with respect to property levied upon while the temporary protective order is in effect under a writ of attachment issued upon application of the plaintiff.

SEC. 3. Section 488.080 of the Code of Civil Procedure is amended to read:

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455.

(9) Property in a safe-deposit box, pursuant to Section 488.460.

(10) Accounts receivable or general intangibles, pursuant to

Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) Before levying under the writ of attachment, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 488.610 on a form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be attached. The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the levying officer under subdivision (d) except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (d).

(f) The fee for services of a registered process server under this section may, in the court's discretion, be allowed as a recoverable cost. If allowed, the amount of the fee to be allowed is governed by Section 1032.8.

SEC. 3.5. Section 488.080 of the Code of Civil Procedure is amended to read:

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like

(including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455.

(9) Property in a safe-deposit box, pursuant to Section 488.460.

(10) Accounts receivable or general intangibles, pursuant to Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) Before levying under the writ of attachment, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 488.610 on form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be attached. The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the

levying officer under subdivision (d) except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (d).

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1032.8.

SEC. 4. Section 488.455 of the Code of Civil Procedure is amended to read:

488.455. (a) Subject to Section 488.465, to attach a deposit account, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the financial institution with which the deposit account is maintained. The attachment lien reaches only amounts in the deposit account at the time of service on the financial institution (including any item in the deposit account that is in the process of being collected unless the item is returned unpaid to the financial institution).

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on any third person in whose name the deposit account stands.

(c) During the time the attachment lien is in effect, the financial institution shall not honor a check or other order for the payment of money drawn against, and shall not pay a withdrawal from, the deposit account that would reduce the deposit account to an amount less than the amount attached. For the purposes of this subdivision, in determining the amount of the deposit account, the financial institution shall not include the amount of items deposited to the credit of the deposit account that are in the process of being collected.

(d) During the time the attachment lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the attachment.

(2) Nonpayment of a check or other order for the payment of money drawn or presented against the deposit account where the nonpayment is pursuant to the requirements of subdivision (c).

(3) Refusal to pay a withdrawal from the deposit account where the refusal is pursuant to the requirements of subdivision (c).

(e) When the amount attached pursuant to this section is paid to the levying officer, the attachment lien on the attached deposit account terminates.

(f) For the purposes of this section, neither of the following is a third person in whose name the deposit account stands:

(1) A person who is only a person named as the beneficiary of a Totten trust account.

(2) A person who is only a payee designated in a pay-on-death provision in an account pursuant to Section 852.5, 6854, 14854.5, or

18318.5 of the Financial Code or other similar provision.

(g) When a deposit account has been attached, as an alternative to paying the amount of the deposit account that is attached to the levying officer as required by Section 488.600, the financial institution may continue to hold the deposit account until the deposit account is levied upon after judgment in the action or is earlier released, the deposit account to be held in one of the following manners:

(1) If the entire deposit account is attached, the financial institution may hold the deposit account on the terms applicable before the attachment, subject to the requirements of subdivision (c).

(2) If less than the entire deposit account is attached:

(A) With the consent of the defendant, and any third person in whose name the deposit account stands, the financial institution may hold in the deposit account on the same terms an amount larger than the attached amount as necessary to avoid a penalty or a reduction of the rate of interest.

(B) If the defendant, and any third person in whose name the deposit account stands, do not consent as provided in subparagraph (A), the financial institution may hold the attached amount on the same terms affecting the deposit account before the attachment, subject to the requirements of subdivision (c).

(3) The financial institution may hold the attached deposit account in any other manner agreed upon by the plaintiff, the defendant, and any third person in whose name the deposit account stands.

(h) Nothing in subdivision (g) shall prevent a financial institution that is holding an attached deposit account as provided in subdivision (g) from paying the attached amount to the levying officer before the time the financial institution otherwise is required to pay the amount under subdivision (g).

SEC. 5. Section 488.460 of the Code of Civil Procedure is amended to read:

488.460. (a) Subject to Section 488.465, to attach property in a safe-deposit box, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the financial institution with which the safe-deposit box is maintained.

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on any third person in whose name the safe-deposit box stands.

(c) During the time the attachment lien is in effect, the financial institution shall not permit the removal of any of the contents of the safe-deposit box except pursuant to the attachment.

(d) The levying officer may first give the person in whose name the safe-deposit box stands an opportunity to open the safe-deposit box to permit the removal pursuant to the attachment of the attached property. The financial institution may refuse to permit the

forcible opening of the safe-deposit box to permit the removal of the attached property unless the plaintiff pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

(e) During the time the attachment lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the attachment.

(2) Refusal to permit access to the safe-deposit box by the person in whose name it stands.

(3) Removal of any of the contents of the safe-deposit box pursuant to the attachment.

SEC. 6. Section 488.465 of the Code of Civil Procedure is repealed.

SEC. 6.3. Section 488.465 is added to the Code of Civil Procedure, to read:

488.465. (a) Except as provided in subdivision (b), a deposit account or safe-deposit box standing in the name of a person other than the defendant, either alone or together with other third persons, is not subject to levy under Section 488.455 or 488.460 unless the levy is authorized by court order. The levying officer shall serve a copy of the court order on the third person at the time the copy of the writ of attachment and the notice of attachment are served on the third person.

(b) A court order is not required as a prerequisite to levy on a deposit account or safe-deposit box standing in the name of any of the following:

(1) The defendant, whether alone or together with third persons.

(2) The defendant's spouse, whether alone or together with other third persons. An affidavit showing that the person in whose name the account stands is the defendant's spouse shall be delivered to the financial institution at the time of levy.

(3) A fictitious business name if an unexpired fictitious business name statement filed pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code lists as the persons doing business under the fictitious business name either (A) the defendant or (B) the defendant's spouse or (C) the defendant and the defendant's spouse, but does not list any other person. A copy of a fictitious business name statement, certified as provided in Section 17926 of the Business and Professions Code, that satisfies these requirements shall be delivered to the financial institution at the time of levy and, if a person other than the defendant is listed in the statement, an affidavit showing that the other person is the defendant's spouse shall also be delivered to the financial institution at the time of levy.

(c) In any case where a deposit account in the name of a person other than the defendant, whether alone or together with the defendant, is levied upon, the financial institution shall not pay to the levying officer the amount levied upon until being notified to do so

by the levying officer. The levying officer may not require the financial institution to pay the amount levied upon until the expiration of 15 days after service of notice of attachment on the third person.

SEC. 6.5. Section 488.480 of the Code of Civil Procedure is amended to read:

488.480. (a) As used in this section, "final money judgment" means a money judgment after the time for appeal from the judgment has expired or, if an appeal is filed, after the appeal has been finally determined.

(b) To attach a final money judgment, the levying officer shall file a copy of the writ of attachment and a notice of attachment with the clerk of the court that entered the final money judgment. The court clerk shall endorse upon the judgment a statement of the existence of the attachment lien and the time it was created. If an abstract of the judgment is issued, it shall include a statement of the attachment lien in favor of the plaintiff.

(c) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on the judgment debtor obligated to pay the final money judgment attached.

SEC. 6.7. Section 488.600 of the Code of Civil Procedure is amended to read:

488.600. (a) Sections 701.010, 701.020, 701.040, 701.050, 701.060, and 701.070 prescribe duties and liabilities of a third person under a levy made under this title.

(b) For the purposes of this section, references in Sections 701.010, 701.020, 701.040, 701.050, and 701.060 to:

(1) "Amount required to satisfy the judgment" shall be deemed references to the amount required to satisfy the amount to be secured by the attachment.

(2) "Execution lien" or "lien" shall be deemed references to the attachment lien.

(3) "Judgment creditor" shall be deemed references to the plaintiff.

(4) "Judgment debtor" shall be deemed references to the defendant.

(5) "Levy" shall be deemed references to levy of attachment.

(6) "Notice of levy" shall be deemed references to notice of attachment.

(7) "Release" of property shall be deemed references to release of property pursuant to this title.

(8) "Satisfaction or discharge of the judgment" shall be deemed references to the satisfaction or termination of the attachment.

(9) "Writ" or "writ of execution" shall be deemed references to a writ of attachment.

(c) For the purposes of this section, references in Section 701.070 to:

(1) "Levy" shall be deemed references to levy of attachment.

(2) "Notice of the levy" shall be deemed references to notice of attachment.

SEC. 7. Section 489.210 of the Code of Civil Produre is amended to read:

489.210. Before issuance of a writ of attachment, a temporary protective order, or an order under subdivision (b) of Section 491.415, the plaintiff shall file an undertaking to pay the defendant any amount the defendant may recover for any wrongful attachment by the plaintiff in the action.

SEC. 7.5. Section 491.140 of the Code of Civil Procedure is amended to read:

491.140. (a) If a corporation, partnership, association, trust, or other organization is served with an order to appear for an examination, it shall designate to appear and be examined one or more officers, directors, managing agents, or other persons who are familiar with its property and debts.

(b) If the order to appear for an examination requires the appearance of a specified individual, the specified individual shall appear for the examination and may be accompanied by one or more officers, directors, managing agents, or other persons familiar with the property and debts of the corporation, partnership, association, trust, or other organization.

(c) If the order to appear for the examination does not require the appearance of a specified individual, the order shall advise the corporation, partnership, association, trust, or other organization of its duty to make a designation under subdivision (a).

(d) A corporation, partnership, association, trust, or other organization, whether or not a party, may appear at an examination through any authorized officer, director, or employee, whether or not the person is an attorney.

SEC. 8. Section 491.410 of the Code of Civil Procedure is amended to read:

491.410. (a) If the defendant is a party to a pending action or special proceeding, the plaintiff may obtain a lien under this article, to the extent required to secure the amount to be secured by the attachment, on both of the following:

(1) Any cause of action of the defendant for money or property that is the subject of the other action or proceeding, if the money or property would be subject to attachment if the defendant prevails in the action or proceedings.

(2) The rights of the defendant to money or property under any judgment subsequently procured in the other action or proceeding, if the money or property would be subject to attachment.

(b) To obtain a lien under this article, the plaintiff shall file all of the following in the other pending action or special proceeding:

(1) A notice of lien.

(2) A copy of the right to attach order.

(3) A copy of an order permitting creation of a lien under this article made by the court that issued the right to attach order.

(c) At the time of the filing under subdivision (b) or promptly thereafter, the plaintiff shall serve on all parties who, prior thereto, have made an appearance in the other action or special proceeding a copy of the notice of lien and a statement of the date when the notice of lien was filed in the other action or special proceeding. Failure to serve all parties as required by this subdivision does not affect the lien created by the filing under subdivision (b), but the rights of a party are not affected by the lien until the party has notice of the lien.

(d) For the purpose of this article, an action or special proceeding is pending until the time for appeal from the judgment has expired or, if an appeal is filed, until the appeal has been finally determined.

SEC. 9. Section 491.415 is added to the Code of Civil Procedure, to read:

491.415. (a) For the purpose of applying for a right to attach order, the defendant's cause of action that is the subject of the pending action or proceeding and the defendant's rights to money or property under a judgment procured in the action or proceeding shall be treated as property subject to attachment.

(b) At the time the plaintiff applies for a right to attach order, the plaintiff may apply for an order permitting creation of a lien under this article. If the plaintiff has already obtained a right to attach order, an application for an order permitting creation of a lien under this article may be applied for in the same manner as a writ of attachment. As a prerequisite to obtaining an order under this subdivision, the plaintiff shall file an undertaking as provided by Sections 489.210 and 489.220.

(c) The defendant may, but is not required to, claim an exemption in a proceeding initiated by the plaintiff for an order permitting creation of a lien under this article. An exemption may be claimed if the money or property sought by the defendant would be exempt from attachment should the defendant prevail in the other action or proceeding. The exemption shall be claimed and determined pursuant to this subdivision in the same manner as an exemption is claimed and determined upon application for a writ of attachment.

SEC. 10. Section 491.430 of the Code of Civil Procedure is amended to read:

491.430. (a) The court in which the action or special proceeding subject to the lien under this article is pending may permit the plaintiff who has obtained the lien to intervene in the action or proceeding pursuant to Section 387.

(b) For the purposes of subdivision (a) of Section 491.460 and Section 491.470, a plaintiff shall be deemed to be a party to the action or special proceeding even though the plaintiff has not become a party to the action or proceeding under subdivision (a).

SEC. 11. Section 491.470 is added to the Code of Civil Procedure, to read:

491.470. (a) If a lien is created under this article, the defendant may claim that all or any portion of the money or property that the

defendant may recover in the action or special proceeding is exempt from attachment. The claim shall be made by application on noticed motion to the court in which the action or special proceeding is pending, filed, and served on the plaintiff not later than 30 days after the defendant has notice of the creation of lien. The defendant shall execute an affidavit in support of the application that includes the matters set forth in subdivision (c) of Section 484.070. No notice of opposition to the claim of exemption is required. The failure of the defendant to make a claim of exemption under this section constitutes a waiver of the exemption.

(b) The court may determine the exemption claim at any time prior to the entry of judgment in the action or special proceeding or may consolidate the exemption hearing with the hearing on a motion pursuant to Section 491.460.

(c) If the defendant establishes to the satisfaction of the court that the money or property that the defendant may recover in the action or special proceeding is all or partially exempt from attachment, the court shall order the termination of the lien created under this article on the exempt portion of the money or property.

SEC. 12. Section 515.010 of the Code of Civil Procedure is amended to read:

515.010. The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court an undertaking. The undertaking shall provide that the sureties are bound to the defendant for the return of the property to the defendant, if return of the property is ordered, and for the payment to the defendant of any sum recovered against plaintiff. The undertaking shall be in an amount not less than twice the value of defendant's interest in the property or in a greater amount. The value of the defendant's interest in the property is determined by the market value of the property less the amount due and owing on any conditional sales contract or security agreement and all liens and encumbrances on the property, and such other factors as may be necessary to determine the defendant's interest in the property.

SEC. 13. Section 515.020 of the Code of Civil Procedure is amended to read:

515.020. (a) The defendant may prevent the plaintiff from taking possession of property pursuant to a writ of possession or regain possession of property so taken by filing with the court in which the action was brought an undertaking in an amount equal to the amount of the plaintiff's undertaking required by Section 515.010. The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property. The damages recoverable by the plaintiff pursuant to this section shall include all damages proximately caused by the plaintiff's failure to gain or retain possession.

(b) The defendant's undertaking may be filed at any time before

or after levy of the writ of possession. A copy of the undertaking shall be mailed to the levying officer.

(c) If an undertaking for redelivery is filed and defendant's undertaking is not objected to, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver such property to the defendant. If an undertaking for redelivery is filed and defendant's undertaking is objected to, the provisions of Section 515.030 apply.

SEC. 14. Section 515.030 of the Code of Civil Procedure is amended to read:

515.030. (a) The defendant may object to the plaintiff's undertaking not later than 10 days after levy of the writ of possession. The defendant shall mail notice of objection to the levying officer.

(b) The plaintiff may object to the defendant's undertaking not later than 10 days after the defendant's undertaking is filed. The plaintiff shall mail notice of objection to the levying officer.

(c) If the court determines that the plaintiff's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the court shall vacate the temporary restraining order or preliminary injunction, if any, and the writ of possession and, if levy has occurred, order the levying officer or the plaintiff to return the property to the defendant. If the court determines that the plaintiff's undertaking is sufficient, the court shall order the levying officer to deliver the property to the plaintiff.

(d) If the court determines that the defendant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, the plaintiff shall retain possession. If the court determines that the defendant's undertaking is sufficient, the court shall order the levying officer or the plaintiff to deliver the property to the defendant.

SEC. 15. Section 681.030 of the Code of Civil Procedure is amended to read:

681.030. (a) The Judicial Council may provide by rule for the practice and procedure in proceedings under this title.

(b) The Judicial Council may prescribe the form of the applications, notices, orders, writs, and other papers to be used under this title. The Judicial Council may prescribe forms in languages other than English.

(c) The Judicial Council shall prepare a form containing both of the following:

(1) A list of each of the federal and this state's exemptions from enforcement of a money judgment against a natural person.

(2) A citation to the relevant statute of the United States or this state which creates each of the exemptions.

SEC. 16. Chapter 19 (commencing with Section 693.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure is

repealed.

SEC. 17. Section 695.010 of the Code of Civil Procedure is amended to read:

695.010. (a) Except as otherwise provided by law, all property of the judgment debtor is subject to enforcement of a money judgment.

(b) If property of the judgment debtor was attached in the action but was transferred before entry of the money judgment in favor of the judgment creditor, the property is subject to enforcement of the money judgment so long as the attachment lien remains effective.

SEC. 18. Section 697.340 of the Code of Civil Procedure is amended to read:

697.340. Except as provided in Section 704.950:

(a) A judgment lien on real property attaches to all interests in real property in the county where the lien is created (whether present or future, vested or contingent, legal or equitable) that are subject to enforcement of the money judgment against the judgment debtor pursuant to Article 1 (commencing with Section 695.010) of Chapter 1 at the time the lien was created, but does not reach rental payments, a leasehold estate with an unexpired term of less than two years, the interest of a beneficiary under a trust, or real property that is subject to an attachment lien in favor of the creditor and was transferred before judgment.

(b) If any interest in real property in the county on which a judgment lien could be created under subdivision (a) is acquired after the judgment lien was created, the judgment lien attaches to such interest at the time it is acquired.

SEC. 19. Section 697.390 of the Code of Civil Procedure is amended to read:

697.390. If an interest in real property that is subject to a judgment lien is transferred or encumbered without satisfying or extinguishing the judgment lien:

(a) The interest transferred or encumbered remains subject to a judgment lien created pursuant to Section 697.310 in the same amount as if the interest had not been transferred or encumbered.

(b) The interest transferred or encumbered remains subject to a judgment lien created pursuant to Section 697.320 in the amount of the lien at the time of transfer or encumbrance plus interest thereafter accruing on such amount.

SEC. 19.5. Section 697.590 of the Code of Civil Procedure is repealed.

SEC. 19.6. Section 697.590 is added to the Code of Civil Procedure, to read:

697.590. (a) As used in this section:

(1) "Filing" means:

(A) With respect to a judgment lien on personal property, the filing of a notice of judgment lien in the office of the Secretary of State to create a judgment lien on personal property under this article.

(B) With respect to a security interest, the filing of a financing

statement pursuant to Division 9 (commencing with Section 9101) of the Commercial Code.

(2) "Perfection" means perfection of a security interest pursuant to Division 9 (commencing with Section 9101) of the Commercial Code.

(3) "Personal property" means:

(A) With respect to a judgment lien on personal property, the property to which a judgment lien has attached pursuant to this article.

(B) With respect to a security interest, the collateral subject to a security interest pursuant to Division 9 (commencing with Section 9101) of the Commercial Code.

(4) "Purchase money security interest" means "purchase money security interest" as defined in Section 9107 of the Commercial Code.

(b) Except as provided in subdivisions (d) and (e), priority between a judgment lien on personal property and a conflicting security interest in the same personal property shall be determined according to this subdivision. Conflicting interests rank according to priority in time of filing or perfection. In the case of a judgment lien, priority dates from the time filing is first made covering the personal property. In the case of a security interest, priority dates from the time a filing is first made covering the personal property or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(c) For the purposes of subdivision (b), a date of filing or perfection as to personal property is also a date of filing or perfection as to proceeds.

(d) A purchase money security interest has priority over a conflicting judgment lien on the same personal property or its proceeds if the purchase money security interest is perfected at the time the judgment debtor (as a debtor under the security agreement) receives possession of the personal property or within 10 days thereafter.

(e) If a purchase money security interest in inventory has priority over a judgment lien pursuant to subdivision (d) and a conflicting security interest has priority over the purchase money security interest in the same inventory pursuant to subdivision (3) of Section 9312 of the Commerical Code, the conflicting security interest also has priority over the judgment lien on the inventory subject to the purchase money security interest notwithstanding that the conflicting security interest would not otherwise have priority over the judgment lien.

(f) A judgment lien that has attached to personal property and that is also subordinate under subdivision (b) to a security interest in the same personal property is subordinate to the security interest only to the extent that the security interest secures advances made before the judgment lien attached or within 45 days thereafter or made without knowledge of the judgment lien or pursuant to a

commitment entered into without knowledge of the judgment lien. As used in this subdivision, the meaning of "knowledge" is governed by Section 1201 of the Commercial Code. For the purpose of this subdivision, a secured party shall be deemed not to have knowledge of a judgment lien on personal property until the time the judgment creditor serves a copy of the notice of judgment lien on the secured party personally or by mail. If service on the secured party is by mail, it shall be sent to the secured party at the address shown in the financing statement or security agreement.

SEC. 20. Section 699.080 of the Code of Civil Procedure is amended to read:

699.080. (a) A registered process server may levy under a writ of execution on the following types of property:

(1) Real property, pursuant to Section 700.015.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 700.020.

(3) Personal property in the custody of a levying officer, pursuant to Section 700.050.

(4) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(5) Deposit accounts, pursuant to Section 700.140.

(6) Property in a safe-deposit box, pursuant to Section 700.150.

(7) Accounts receivable or general intangibles, pursuant to Section 700.170.

(8) Final money judgments, pursuant to Section 700.190.

(9) Interest of a judgment debtor in personal property in the estate of a decedent, pursuant to Section 700.200.

(b) Before levying under the writ of execution, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 4 (commencing with Section 700.010).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 701.030 on a form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of levy on other persons as required by Article 4 (commencing with Section 700.010).

(4) Instructions in writing, as required by the provisions of Section

687.010.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be levied upon.

(f) The fee for services of a registered process server under this section may, in the court's discretion, be allowed as a recoverable cost upon a motion pursuant to Section 685.080. If allowed, the amount of the fee to be allowed is governed by Section 1032.8.

SEC. 20.5. Section 699.080 of the Code of Civil Procedure is amended to read:

699.080. (a) A registered process server may levy under a writ of execution on the following types of property:

(1) Real property, pursuant to Section 700.015.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 700.020.

(3) Personal property in the custody of a levying officer, pursuant to Section 700.050.

(4) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(5) Deposit accounts, pursuant to Section 700.140.

(6) Property in a safe-deposit box, pursuant to Section 700.150.

(7) Accounts receivable or general intangibles, pursuant to Section 700.170.

(8) Final money judgments, pursuant to Section 700.190.

(9) Interest of a judgment debtor in personal property in the estate of a decedent, pursuant to Section 700.200.

(b) Before levying under the writ of execution, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 4 (commencing with Section 700.010).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 701.030 on a form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of levy on

other persons as required by Article 4 (commencing with Section 700.010).

(4) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be levied upon.

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1032.8.

SEC. 21. Section 700.140 of the Code of Civil Procedure is amended to read:

700.140. (a) Subject to Section 700.160, to levy upon a deposit account, the levying officer shall personally serve a copy of the writ of execution and a notice of levy on the financial institution with which the deposit account is maintained. The execution lien reaches only amounts in the deposit account at the time of service on the financial institution (including any item in the deposit account that is in the process of being collected unless the item is returned unpaid to the financial institution).

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of execution and a notice of levy on any third person in whose name the deposit account stands. Service shall be made personally or by mail.

(c) During the time the execution lien is in effect, the financial institution shall not honor a check or other order for the payment of money drawn against, and shall not pay a withdrawal from, the deposit account that would reduce the deposit account to an amount less than the amount levied upon. For the purposes of this subdivision, in determining the amount of the deposit account, the financial institution shall not include the amount of items deposited to the credit of the deposit account that are in the process of being collected.

(d) During the time the execution lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the levy.

(2) Nonpayment of a check or other order for the payment of money drawn or presented against the deposit account where such nonpayment is pursuant to the requirements of subdivision (c).

(3) Refusal to pay a withdrawal from the deposit account where such refusal is pursuant to the requirements of subdivision (c).

(e) When the amount levied upon pursuant to this section is paid to the levying officer, the execution lien on the deposit account levied upon terminates.

(f) For the purposes of this section, neither of the following is a

third person in whose name the deposit account stands:

(1) A person who is only a person named as the beneficiary of a Totten trust account.

(2) A person who is only a payee designated in a pay-on-death provision in an account pursuant to Section 852.5, 6854, 14854.5, or 18318.5 of the Financial Code or other similar provision.

SEC. 22. Section 700.150 of the Code of Civil Procedure is amended to read:

700.150. (a) Subject to Section 700.160, to levy upon property in a safe-deposit box, the levying officer shall personally serve a copy of the writ of execution and a notice of levy on the financial institution with which the safe-deposit box is maintained.

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of execution and a notice of levy on any third person in whose name the safe-deposit box stands. Service shall be made personally or by mail.

(c) During the time the execution lien is in effect, the financial institution shall not permit the removal of any of the contents of the safe-deposit box except pursuant to the levy.

(d) The levying officer may first give the person in whose name the safe-deposit box stands an opportunity to open the safe-deposit box to permit the removal pursuant to the levy of the property levied upon. The financial institution may refuse to permit the forcible opening of the safe-deposit box to permit the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

(e) During the time the execution lien is in effect, the financial institution is not liable to any person for any of the following:

(1) Performance of the duties of a garnishee under the levy.

(2) Refusal to permit access to the safe-deposit box by the person in whose name it stands.

(3) Removal of any of the contents of the safe-deposit box pursuant to the levy.

SEC. 23. Section 700.160 of the Code of Civil Procedure is repealed.

SEC. 23.5. Section 700.160 is added to the Code of Civil Procedure, to read:

700.160. (a) Except as provided in subdivision (b), a deposit account or safe-deposit box standing in the name of a person other than the judgment debtor, either alone or together with other third persons, is not subject to levy under Section 700.140 or 700.150 unless the levy is authorized by court order. The levying officer shall serve a copy of the court order on the third person at the time the copy of the writ of execution and the notice of levy are served on the third person.

(b) A court order is not required as a prerequisite to levy on a deposit account or safe-deposit box standing in the name of any of the following:

(1) The judgment debtor, whether alone or together with third persons.

(2) The judgment debtor's spouse, whether alone or together with other third persons. An affidavit showing that the person in whose name the account stands is the judgment debtor's spouse shall be delivered to the financial institution at the time of levy.

(3) A fictitious business name if an unexpired fictitious business name statement filed pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code lists as the persons doing business under the fictitious business name either (A) the judgment debtor or (B) the judgment debtor's spouse or (C) the judgment debtor and the judgment debtor's spouse, but does not list any other person. A copy of a fictitious business name statement, certified as provided in Section 17926 of the Business and Professions Code, that satisfies these requirements shall be delivered to the financial institution at the time of levy, and if a person other than the defendant is listed in the statement, an affidavit showing that the other person is the judgment debtor's spouse shall also be delivered to the financial institution at the time of levy.

(c) In any case where a deposit account in the name of a person other than the judgment debtor, whether alone or together with the judgment debtor, is levied upon, the financial institution shall not pay to the levying officer the amount levied upon until being notified to do so by the levying officer. The levying officer may not require the financial institution to pay the amount levied upon until the expiration of 15 days after service of notice of levy on the third person.

SEC. 24. Section 700.165 of the Code of Civil Procedure is repealed.

SEC. 25. Section 700.167 of the Code of Civil Procedure is repealed.

SEC. 25.3. Section 700.190 of the Code of Civil Procedure is amended to read:

700.190. (a) As used in this section, "final money judgment" means a money judgment after the time for appeal from the judgment has expired or, if an appeal is filed, after the appeal has been finally determined.

(b) To levy upon a final money judgment, the levying officer shall file a copy of the writ of execution and a notice of levy with the clerk of the court that entered the final money judgment. The court clerk shall endorse upon the judgment a statement of the existence of the execution lien and the time it was created. If an abstract of the judgment is issued, it shall include a statement of the execution lien in favor of the judgment creditor.

(c) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of execution and a notice of levy on the judgment debtor obligated to pay the final money judgment levied upon. Service shall be made personally or by mail.

SEC. 25.5. Section 701.070 is added to the Code of Civil Procedure, to read:

701.070. If a final money judgment has been levied upon and the levying officer has served the judgment debtor under the final money judgment levied upon, the judgment debtor shall make any payments due under the judgment to the levying officer. Payments made to a person other than the levying officer do not discharge the obligation of the judgment debtor under the final money judgment levied upon if the payments are made after the judgment debtor has received notice of the levy.

SEC. 26. Section 704.740 of the Code of Civil Procedure is amended to read:

704.740. (a) Except as provided in subdivision (b), the interest of a natural person in a dwelling may not be sold under this division to enforce a money judgment except pursuant to a court order for sale obtained under this article and the dwelling exemption shall be determined under this article.

(b) If the dwelling is personal property or is real property in which the judgment debtor has a leasehold estate with an unexpired term of less than two years at the time of levy:

(1) A court order for sale is not required and the procedures provided in this article relating to the court order for sale do not apply.

(2) An exemption claim shall be made and determined as provided in Article 2 (commencing with Section 703.510).

SEC. 26.5. Section 704.780 of the Code of Civil Procedure is amended to read:

704.780. (a) The burden of proof at the hearing is determined in the following manner:

(1) If the records of the county tax assessor indicate that there is a current homeowner's exemption or disabled veteran's exemption for the dwelling claimed by the judgment debtor or the judgment debtor's spouse, the judgment creditor has the burden of proof that the dwelling is not a homestead. If the records of the county tax assessor indicate that there is not a current homeowner's exemption or disabled veteran's exemption for the dwelling claimed by the judgment debtor or the judgment debtor's spouse, the burden of proof that the dwelling is a homestead is on the person who claims that the dwelling is a homestead.

(2) If the application states the amount of the homestead exemption, the person claiming the homestead exemption has the burden of proof that the amount of the exemption is other than the amount stated in the application.

(b) The court shall determine whether the dwelling is exempt. If the court determines that the dwelling is exempt, the court shall determine the amount of the homestead exemption and the fair market value of the dwelling and shall make an order for sale of the dwelling subject to the homestead exemption. The order for sale of the dwelling subject to the homestead exemption shall specify the

amount of the proceeds of the sale that is to be distributed to each person having a lien or encumbrance on the dwelling and shall include the name and address of each such person. Subject to the provisions of this article, the sale is governed by Article 6 (commencing with Section 701.510) of Chapter 3. If the court determines that the dwelling is not exempt, the court shall make an order for sale of the property in the manner provided in Article 6 (commencing with Section 701.510) of Chapter 3.

(c) The court clerk shall transmit a certified copy of the court order (1) to the levying officer and (2) if the court making the order is not the court in which the judgment was entered, to the clerk of the court in which the judgment was entered.

(d) The court may appoint a qualified appraiser to assist the court in determining the fair market value of the dwelling. If the court appoints an appraiser, the court shall fix the compensation of the appraiser in an amount determined by the court to be reasonable, not to exceed similar fees for similar services in the community where the dwelling is located.

SEC. 27. Section 704.995 is added to the Code of Civil Procedure, to read:

704.995. (a) The protection of the declared homestead from any creditor having an attachment lien, execution lien, or judgment lien on the dwelling continues after the death of the declared homestead owner if, at the time of the death, the dwelling was the principal dwelling of one or more of the following persons to whom all or part of the interest of the deceased declared homestead owner passes:

(1) The surviving spouse of the decedent.

(2) A member of the family of the decedent.

(b) The protection of the declared homestead provided by subdivision (a) continues regardless of whether the decedent was the sole owner of the declared homestead or owned the declared homestead with the surviving spouse or a member of the decedent's family and regardless of whether the surviving spouse or the member of the decedent's family was a declared homestead owner at the time of the decedent's death.

(c) The amount of the homestead exemption is determined pursuant to Section 704.730 depending on the circumstances of the case at the time the amount is required to be determined.

SEC. 28. Section 706.101 of the Code of Civil Procedure is amended to read:

706.101. (a) An earnings withholding order shall be served by the levying officer upon the employer by delivery of the order to any of the following:

(1) The managing agent or person in charge, at the time of service, of the branch or office where the employee works or the office from which the employee is paid. In the case of a state employee, the office from which the employee is paid does not include the Controller's office unless the employee works directly for the Controller's office.

(2) Any person to whom a copy of the summons and of the complaint may be delivered to make service on the employer under Article 4 (commencing with Section 416.10) of Chapter 4 of Title 5.

(b) Service of an earnings withholding order shall be made by personal delivery as provided in Section 415.10 or 415.20 or by delivery by registered or certified mail, postage prepaid, with return receipt requested. When service is made by mail, service is complete at the time the return receipt is executed by or on behalf of the recipient. If the levying officer attempts service by mail under this subdivision and does not receive a return receipt within 15 days from the date of deposit in the mail of the earnings withholding order, the levying officer shall make service as provided in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5.

(c) Except as provided in subdivision (b), service of any notice or document under this chapter may be made by first-class mail, postage prepaid. If service is made on the employer after the employer's return has been received by the levying officer, the service shall be made by first-class mail, postage prepaid, on the person designated in the employer's return to receive notices and at the address indicated in the employer's return, whether or not such address is within the county. Nothing in this subdivision precludes service by personal delivery (1) on the employer before the employer's return has been received by the levying officer or (2) on the person designated in the employer's return after its receipt.

(d) Notwithstanding subdivision (b), if the judgment creditor so requests, the levying officer shall make service of the earnings withholding order by personal delivery as provided in Section 415.10 or 415.20. If the judgment creditor requests that service be made under this subdivision, the fee provided in Section 26750 of the Government Code shall be increased by one dollar and fifty cents ($1.50).

SEC. 29. Section 706.108 is added to the Code of Civil Procedure, to read:

706.108. (a) If a writ of execution has been issued to the county where the judgment debtor's employer is to be served and the time specified in subdivision (b) of Section 699.530 for levy on property under the writ has not expired, a judgment creditor may deliver an application for issuance of an earnings withholding order to a registered process server who may then issue an earnings withholding order.

(b) If the registered process server has issued the earnings withholding order, the registered process server, before serving the earnings withholding order, shall deposit with the levying officer a copy of the writ of execution, the application for issuance of an earnings withholding order, and a copy of the earnings withholding order, and shall pay the fee provided by Section 26750 of the Government Code.

(c) A registered process server may serve an earnings withholding order on an employer whether the earnings

withholding order was issued by a levying officer or by a registered process server, but no earnings withholding order may be served after the time specified in subdivision (b) of Section 699.530. In performing this function, the registered process server shall serve upon the designated employer all of the following:

(1) The original and one copy of the earnings withholding order.

(2) The form for the employer's return.

(3) The notice to employee of earnings withholding order.

(4) A copy of the employer's instructions referred to in Section 706.127, except as otherwise prescribed in rules adopted by the Judicial Council.

(d) Within five days after service under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution, if it is not already in the hands of the levying officer.

(2) Proof of service on the employer of the papers listed in subdivision (c).

(3) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26750 of the Government Code has been paid, the levying officer shall perform all other duties required by the provisions of this chapter as if the levying officer had served the earnings withholding order. If the registered process server does not comply with subdivisions (b), where applicable, and (d), the service of the earnings withholding order is ineffective and the levying officer is not required to perform any duties under the order and may terminate the order and may release any withheld earnings to the judgment debtor.

(f) The fee for services of a registered process server under this section may, in the court's discretion, be allowed as a recoverable cost upon a motion pursuant to Section 685.080. If allowed, the amount of the fee is governed by Section 1032.8 but may not exceed one dollar and fifty cents ($1.50).

SEC. 30. Section 708.110 of the Code of Civil Procedure is amended to read:

708.110. (a) The judgment creditor may apply to the proper court for an order requiring the judgment debtor to appear before the court, or before a referee appointed by the court, at a time and place specified in the order, to furnish information to aid in enforcement of the money judgment.

(b) If the judgment creditor has not caused the judgment debtor to be examined under this section during the preceding 120 days, the court shall make the order upon ex parte application of the judgment creditor.

(c) If the judgment creditor has caused the judgment debtor to be examined under this section during the preceding 120 days, the court shall make the order if the judgment creditor by affidavit or otherwise shows good cause for the order. The application shall be made on noticed motion if the court so directs or a court rule so

requires. Otherwise, it may be made ex parte.

(d) The judgment creditor shall personally serve a copy of the order on the judgment debtor not less than 10 days before the date set for the examination. Service of the order creates a lien on the personal property of the judgment debtor for a period of one year from the date of the order unless extended or sooner terminated by the court.

(e) The order shall contain the following statement in 14-point boldface type if printed or in capital letters if typed: "NOTICE TO JUDGMENT DEBTOR. If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court and the court may make an order requiring you to pay the reasonable attorney's fees incurred by the judgment creditor in this proceeding."

SEC. 30.5. Section 708.150 of the Code of Civil Procedure is amended to read:

708.150. (a) If a corporation, partnership, association, trust, or other organization is served with an order to appear for an examination, it shall designate to appear and be examined one or more officers, directors, managing agents, or other persons who are familiar with its property and debts.

(b) If the order to appear for an examination requires the appearance of a specified individual, the specified individual shall appear for the examination and may be accompanied by one or more officers, directors, managing agents, or other persons familiar with the property and debts of the corporation, partnership, association, trust, or other organization.

(c) If the order to appear for the examination does not require the appearance of a specified individual, the order shall advise the corporation, partnership, association, trust, or other organization of its duty to make a designation under subdivision (a).

(d) A corporation, partnership, association, trust, or other organization, whether or not a party, may appear at an examination through any authorized officer, director, or employee, whether or not the person is an attorney.

SEC. 31. Section 708.450 of the Code of Civil Procedure is amended to read:

708.450. (a) If a lien is created under this article, the judgment debtor may claim that all or any portion of the money or property that the judgment debtor may recover in the action or special proceeding is exempt from enforcement of a money judgment. The claim shall be made by application on noticed motion to the court in which the action or special proceeding is pending, filed and served on the judgment creditor not later than 30 days after the judgment debtor has notice of the creation of the lien. Service shall be made personally or by mail. The judgment debtor shall execute an affidavit in support of the application that includes all the matters set forth in subdivision (b) of Section 703.520. No notice of opposition to the claim of exemption is required. The failure of the judgment debtor

to make a claim of exemption under this section constitutes a waiver of the exemption.

(b) The court may determine the exemption claim at any time prior to the entry of judgment in the action or special proceeding or may consolidate the exemption hearing with the hearing on a motion pursuant to Section 708.470.

(c) If the judgment debtor establishes to the satisfaction of the court that the right of the judgment debtor to money or property under the judgment in the action or special proceeding is all or partially exempt from enforcement of a money judgment, the court shall order the termination of the lien created under this article on the exempt portion of the money or property.

SEC. 32. Section 708.530 of the Code of Civil Procedure is amended to read:

708.530. (a) Except as provided in subdivision (b), the effect and priority of an assignment ordered pursuant to this article is governed by Section 955.1 of the Civil Code. For the purpose of priority, an assignee of a right to payment pursuant to this article shall be deemed to be a bona fide assignee for value under the terms of Section 955.1 of the Civil Code.

(b) An assignment of the right to future rent ordered under this article is recordable as an instrument affecting real property and the priority of such an assignment is governed by Section 1214 of the Civil Code.

SEC. 32.5. Section 729.060 of the Code of Civil Procedure is amended to read:

729.060. (a) A person who seeks to redeem the property shall deposit the redemption price with the levying officer who conducted the sale before the expiration of the redemption period. If a successor in interest to the judgment debtor seeks to redeem the property, the successor in interest shall, at the time the redemption price is deposited, file with the levying officer either (1) a certified copy of a recorded conveyance or (2) a copy of an assignment or any other evidence of the interest verified by an affidavit of the successor in interest or of a subscribing witness thereto.

(b) The redemption price is the total of the following amounts, less any offset allowed under subdivision (c).

(1) The purchase price at the sale.

(2) The amount of any assessments or taxes and reasonable amounts for fire insurance, maintenance, upkeep, and repair of improvements on the property.

(3) Any amount paid by the purchaser on a prior obligation secured by the property to the extent that the payment was necessary for the protection of the purchaser's interest.

(4) Interest on the amounts described in paragraphs (1), (2), and (3) at the rate of interest on money judgments from the time such amount was paid until the date the deposit is made.

(5) If the purchaser at the sale has any liens subordinate to the lien under which the property was sold, the amount of the purchaser's

lien, plus interest at the rate of interest on money judgments from the date of the sale until the date the deposit is made.

(c) Rents and profits from the property paid to the purchaser or the value of the use and occupation of the property to the purchaser may be offset against the amounts described in subdivision (b).

SEC. 33. Section 995.930 of the Code of Civil Procedure is amended to read:

995.930. (a) An objection shall be in writing and shall be made by noticed motion. The notice of motion shall specify the precise grounds for the objection. If a ground for the objection is that the amount of the bond is insufficient, the notice of motion shall state the reason for the insufficiency and shall include an estimate of the amount that would be sufficient.

(b) The objection shall be made within 10 days after service of a copy of the bond on the beneficiary or such other time as is required by the statute providing for the bond.

(c) If no objection is made within the time required by statute, the beneficiary is deemed to have waived all objections except upon a showing of good cause for failure to make the objection within the time required by statute or of changed circumstances.

SEC. 33.3. Section 996.475 is added to the Code of Civil Procedure, to read:

996.475. Nothing in this chapter is intended to limit the liability of a surety pursuant to any other statute. This section is declaratory of, and not a change in, existing law.

SEC. 33.5. Section 9301 of the Commercial Code is amended to read:

9301. (1) Except as otherwise provided in subdivision (2), an unperfected security interest is subordinate to the rights of all of the following:

(a) Persons entitled to priority under Section 9312.

(b) A person who becomes a lien creditor before the security interest is perfected.

(c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected.

(d) In the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within 10 days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes

an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. "Lien creditor" does not include a creditor who by filing a notice with the Secretary of State has acquired only an attachment or judgment lien on personal property, or both.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within 45 days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

SEC. 33.7. Section 26735 of the Government Code is repealed.

SEC. 34. Section 26830 of the Government Code is amended to read:

26830. The fee for filing any notice of motion, or any other paper requiring a hearing subsequent to the first paper, or any notice of intention to move for a new trial of any civil action or special proceeding, or an application for renewal of a judgment, is fourteen dollars ($14), except that there shall be no fee for filing any of the following:

(a) An amended notice of motion.

(b) An ex parte motion.

(c) A memorandum that a civil case is at issue.

(d) A demurrer to the original proceeding.

(e) A motion to strike when filed concurrently with the demurrer to the original pleading.

(f) A hearing on a petition for emancipation of a minor.

(g) Default hearings.

(h) A show-cause hearing on a petition for an injunction prohibiting harassment.

(i) A show-cause hearing on an application for an order prohibiting domestic violence.

(j) A show-cause hearing on writs of review, mandate, or prohibition.

(k) A show-cause hearing on a petition for a change of name.

(*l*) A hearing to compromise a claim of a minor or an insane or incompetent person.

(m) A stipulation by the parties for a continuance of a hearing.

(n) Order of examination of judgment debtor.

(o) Notice of motion for order determining claim of exemption.

SEC. 35. (a) Section 1.1 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 2400. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) AB 2260 and SB 1344 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2400, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 2260. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, (3) AB 2400 and SB 1344 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2260 in which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and SB 1344. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) AB 2400 and 2260 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1344, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(d) Section 1.4 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by this bill, AB 2400, and AB 2260. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, (3) SB 1344 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2400 and AB 2260 in which case Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(e) Section 1.5 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill, AB 2400 and SB 1344. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) AB 2260 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2400 and SB 1344, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become operative.

(f) Section 1.6 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill, AB 2260 and SB 1344. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1985, (2) each bill amends Section 86 of the Code of Civil Procedure, (3) AB 2400 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2260 and SB 1344 in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this bill shall not become operative.

(g) Section 1.7 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by this bill, AB 2400, AB 2260, and SB 1344. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1985, (2) all four bills amend Section 86 of the Code of Civil Procedure, (3) this bill is enacted after AB 2400, AB 2260, and SB 1344, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

SEC. 36. Section 3.5 of this bill incorporates amendments to Section 488.080 of the Code of Civil Procedure proposed by both this

bill and AB 2983. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 488.080 of the Code of Civil Procedure, and (3) this bill is enacted after AB 2983, in which case Section 3 of this bill shall not become operative.

SEC. 37. Section 20.5 of this bill incorporates amendments to Section 699.080 of the Code of Civil Procedure proposed by both this bill and AB 2983. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 699.080 of the Code of Civil Procedure, and (3) this bill is enacted after AB 2983, in which case Section 20 of this bill shall not become operative.

CHAPTER 539

An act to amend Section 5344 of, and to add Section 9702 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 5344 of the Food and Agricultural Code is amended to read:

5344. (a) It is unlawful for the operator of any vehicle to fail to stop the vehicle at an inspection station or to willfully avoid an inspection station. It is also unlawful for the operator to fail to stop either upon demand of a clearly identified plant quarantine officer or upon demand of an officer of the California Highway Patrol, when the officer orders the operator to stop for the purpose of determining whether any quarantine which is established pursuant to any provision of this division is being violated.

(b) Notwithstanding Section 5309, a violation of this section is a misdemeanor and grounds for the vehicle to be stopped for inspection.

SEC. 2. Section 9702 is added to the Food and Agricultural Code, to read:

9702. It is unlawful for the operator of any vehicle to fail to stop the vehicle upon demand of a clearly identified animal health quarantine officer when the officer orders the operator to stop for the purpose of determining whether any quarantine which is established pursuant to this chapter is being violated and the officer has reasonable cause to believe that the vehicle is being used in connection with a quarantine violation.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

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

CHAPTER 540

An act to amend Sections 1342 and 1373.8 of the Health and Safety Code, and to amend Sections 10176.7, 10177.8, and 11512.3 of the Insurance Code, relating to health care.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1342 of the Health and Safety Code is amended to read:

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

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

(b) Assuring that subscribers and enrollees are educated and informed of the benefits and services available in order to enable a rational consumer choice in the marketplace.

(c) Prosecuting malefactors who make fraudulent solicitations or who use deceptive methods, misrepresentations, or practices which are inimical to the general purpose of enabling a rational choice for the consumer public.

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

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

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

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

SEC. 2. Section 1373.8 of the Health and Safety Code is amended to read:

1373.8. A health care service plan contract where the plan is

licensed to do business in this state and the plan provides coverage which includes California residents but which may be written or issued for delivery outside of California and where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensed persons in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued for delivery.

It is the intent of the Legislature in amending this section in the 1984 portion of the 1983–84 Legislative Session that persons covered by the contract and those providers of health care specified in this section who are licensed in California should be entitled to the benefits provided by the plan for services of those providers rendered to those persons.

SEC. 3. Section 10176.7 of the Insurance Code is amended to read:

10176.7. Disability insurance where the insurer is licensed to do business in this state and which provides coverage under a contract of insurance which includes California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensees in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued for delivery.

It is the intent of the Legislature in amending this section in the 1984 portion of the 1983–84 Legislative Session that persons covered by the insurance and those providers of health care specified in this section who are licensed in California should be entitled to the benefits provided by the insurance for services of those providers rendered to those persons.

SEC. 4. Section 10177.8 of the Insurance Code is amended to read:

10177.8. A self-insured employee welfare benefit plan doing business in this state and which provides coverage which includes California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the plan from selecting those licensees in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued.

It is the intent of the Legislature in amending this section in the 1984 portion of the 1983–84 Legislative Session that persons covered by the plan and those providers of health care specified in this section who are licensed in California should be entitled to the benefits provided by the plan for services of those providers rendered to those persons.

SEC. 5. Section 11512.3 of the Insurance Code is amended to read:

11512.3. A hospital service plan contract where the plan is licensed to do business in this state and which provides coverage under a contract which includes California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensees in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued for delivery.

It is the intent of the Legislature in amending this section in the 1984 portion of the 1983–84 Legislative Session that persons covered by the contract and those providers of health care specified in this section who are licensed in California should be entitled to the benefits provided by the plan for services of those providers rendered to those persons.

CHAPTER 541

An act to amend Section 1899.10 of the Civil Code, relating to loans of property to museums, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1899.10 of the Civil Code is amended to read:

1899.10. (a) The three-year limitation on actions to recover personal property prescribed in Code of Civil Procedure Section 338.3 shall run from the date the museum gives the lender notice of its intent to terminate the loan pursuant to Section 1899.9.

(b) Except as provided in subdivision (e), effective January 1, 1985, no action shall be brought against a museum to recover property on loan when more than 25 years have passed from the date of the last written contact between the lender and the museum, as evidenced in the museum's records.

(c) A lender shall be deemed to have donated loaned property to a museum if the lender fails to file an action to recover the property on loan to the museum within the periods specified in subdivisions (a) and (b).

(d) One who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to subdivision (c).

(e) Notwithstanding subdivisions (b) and (c), a lender who was not given notice that the museum intended to terminate a loan and who proves that the museum received a notice of intent to preserve an interest in loaned property within the 25 years immediately preceding the date on which the lender's right to recover the property otherwise expired under subdivision (b) may recover the property or, if the property has been disposed of, the reasonable value of the property at the time the property was disposed of with interest at the rate on judgments set by the Legislature pursuant to Section 1 of Article XV of the California Constitution.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the time period within which a person may file an action to recover property loaned to a museum or the value of the property, and in order to avoid a possible and unintended result by application of the existing provision, it is necessary that this act go into immediate effect.

CHAPTER 542

An act to amend Sections 630, 35401, 35401.5, 35655, 35753, 35784, 40000.23, and 42030 of, to add Section 35784.5 to, and to repeal Section 35401 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 630 of the Vehicle Code is amended to read:

630. A "trailer" is a vehicle designed for carrying persons or property on its own structure and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon any other vehicle. As used in Division 15 (commencing with Section 35000), "trailer" includes a semitrailer when used in conjunction with an auxiliary dolly, if the auxiliary dolly is of a type constructed to replace the function of the drawbar and the front axle or axles of a trailer.

SEC. 2. Section 35401 of the Vehicle Code, as amended by Section 14 of Chapter 145 of the Statutes of 1983, is amended to read:

35401. (a) Except as provided in subdivisions (b) and (c), no combination of vehicles coupled together, including any attachments thereto, shall exceed a total length of 65 feet.

(b) A combination of vehicles coupled together, including any attachments thereto, which consists of a truck tractor, a semitrailer, and a trailer shall not exceed a total length of 75 feet, provided that the length of neither the semitrailer nor the trailer in such combination of vehicles exceeds 28 feet. However, semitrailers and trailers not exceeding 28 feet six inches in length and which were in lawful operation on December 1, 1982, may be used in vehicle combinations under this subdivision.

(c) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under its respective jurisdiction. The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(d) The Legislature, in enacting this section, does not intend to reduce, and this section shall not be construed to reduce, any maximum total length of any combination of vehicles permitted under the statutes as they existed on January 1, 1974.

SEC. 3. Section 35401 of the Vehicle Code, as amended by Section 15 of Chapter 145 of the Statutes of 1983, is repealed.

SEC. 4. Section 35401.5 of the Vehicle Code is amended to read:

35401.5. (a) A combination of vehicles consisting of a truck tractor and semitrailer, or of a truck tractor, semitrailer, and trailer, is not subject to the limitations of Sections 35400 and 35401, when operating on the National System of Interstate and Defense

Highways or when using those portions of federal-aid primary highways or federal-aid urban system highways that have been qualified by the United States Secretary of Transportation for such use, or when using routes appropriately identified by the Department of Transportation or local authorities as provided in subdivision (c), if the following conditions are met:

(1) The length of the semitrailer in exclusive combination with a truck tractor does not exceed 48 feet. For purposes of this paragraph, a motortruck used in combination with a semitrailer, when that combination of vehicles is engaged solely in the transportation of motor vehicles, is considered to be a truck tractor.

(2) Neither the length of the semitrailer nor the length of the trailer when simultaneously in combination with a truck tractor exceeds 28 feet. However, semitrailers or trailers not exceeding 28 feet six inches in length and which were in lawful operation on December 1, 1982, may be used in vehicle combinations under this paragraph.

(b) Subdivisions (b), (c), (d), and (e) of Section 35402 do not apply to combinations of vehicles operated subject to the exemptions provided by this section.

(c) Combinations of vehicles operated pursuant to subdivision (a) may also use highways not specified in subdivision (a) which provide reasonable access to facilities for purposes limited to fuel, food, lodging, and repair when that access is consistent with the safe operation of the combinations of vehicles and when the facility is within one-half road mile of identified points of ingress and egress to or from highways specified in subdivision (a) for use by those combinations of vehicles. However, access to a terminal is permitted only on those routes which the Department of Transportation and affected local authorities have jointly identified and signed as being connections between terminals and the highways specified in subdivision (a), after having determined that the route or routes are adequate to accommodate the vehicle combinations specified in subdivision (a). The signing of routes by the Department of Transportation and local authorities is not required except to indicate those routes which may be used as terminal connection routes.

For purposes of this subdivision, "terminal" means a facility at which freight is consolidated to be shipped or where full-load consignments may be offloaded, or at which the vehicle combinations are regularly maintained, stored, or manufactured.

(d) Notwithstanding subdivision (c), the limitations of access specified in that subdivision do not apply to licensed carriers of household goods when directly enroute to or from a point of loading or unloading of household goods, if travel on highways other than those specified in subdivision (a) is necessary and incidental to the shipment of the household goods.

SEC. 5. Section 35655 of the Vehicle Code is amended to read:

35655. (a) No person shall drive a vehicle on any state highway

when the weight of the vehicle and load is greater than the maximum weight which the highway will sustain. Violations of this subdivision shall be punished in accordance with the schedule of fines set forth in Section 42030.

(b) Upon the trial of any person charged with a violation with respect to signs erected under Section 35654, proof of the determination and the maximum weight by the Department of Transportation and the existence of the signs constitutes prima facie evidence of the maximum weight which the state highway will sustain.

SEC. 6. Section 35753 of the Vehicle Code is amended to read:

35753. (a) No person shall drive a vehicle over any bridge, causeway, viaduct, trestle, or dam constituting a part of a highway when the weight of the vehicle and load thereon is greater than the maximum weight which the bridge or other structure with safety to itself will sustain. Violations of this subdivision shall be punished in accordance with the schedule of fines set forth in Section 42030.

(b) Upon the trial of any person charged with a violation with respect to a weight restriction sign erected pursuant to Section 35752, proof of the determination of the maximum weight by the Department of Transportation and the existence of the weight restriction signs constitute prima facie evidence of the maximum weight which the bridge or other structure with safety to itself will sustain.

SEC. 7. Section 35784 of the Vehicle Code is amended to read:

35784. (a) It is unlawful for any person to violate any of the terms or conditions of any special permit, except that, in an incorporated city where compliance with the route described in the permit would result in a violation of local traffic regulations, the permittee may detour from the prescribed route to avoid the violation if the permittee returns as soon as possible to the prescribed route. A detour under this section shall be made on only nonresidential streets.

(b) If a violation under subdivision (a), which occurs as a result of an extralegal load not being on the route described in the special permit, is directly caused by the action of an employee under the supervision of, or by the action of any independent contractor working for, any person subject to this section, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor. That guilt shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of an action violating a provision of this section. This subdivision applies only if the employee or independent contractor has been provided written direction on the route to travel and has not been directed to take a different route by a peace officer.

(c) (1) Any person convicted of a violation of the terms and conditions of a special permit shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment in the

county jail for a period not exceeding six months, or by both that fine and imprisonment.

(2) In addition, if the violation involves weight in excess of that authorized by the permit, an additional fine shall be levied as specified in Section 42030 on the amount of weight in excess of the amount authorized by the permit.

SEC. 8. Section 35784.5 is added to the Vehicle Code, to read:

35784.5. (a) Any person convicted of transporting an extralegal load on a highway, or causing or directing the operation of or driving on a highway any vehicle or combination of vehicles for which a permit is required pursuant to this article, without having obtained a permit issued in accordance with this article, shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail for a period not exceeding six months, or by both that fine and imprisonment.

(b) If the violation involves excess weight, an additional fine shall be levied as specified in Section 42030 on the amount of weight in excess of that authorized pursuant to this chapter.

SEC. 9. Section 40000.23 of the Vehicle Code is amended to read:

40000.23. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Paragraph (1) of subdivision (c) of Section 35784, relating to special permit violations.

(b) Subdivision (a) of Section 35784.5 relating to extralegal loads and operation of vehicles without a special permit.

(c) Other provisions of Chapter 5 (commencing with Section 35550) of Division 15, which relate to weight restrictions, except in cases of weight violations where the amount of excess weight is less than 4,501 pounds.

SEC. 10. Section 42030 of the Vehicle Code is amended to read:

42030. (a) Every person convicted of a violation of any weight limitation provision of Division 15 (commencing with Section 35000), and every person convicted of a violation of Section 21461 with respect to signs provided pursuant to Section 35654 or Section 35752, and every person convicted of a violation of Section 40001 for requiring the operation of a vehicle upon a highway in violation of any provision referred to in this section shall be punished by a fine which equals the amounts specified in the following table:

Pounds of excess weight	Fine
0– 1,000	$ 20
1,001– 1,500	30
1,501– 2,000	40
2,001– 2,500	55
2,501– 3,000	85
3,001– 3,500	105
3,501– 4,000	125
4,001– 4,500	145
4,501– 5,000	175

5,001- 6,000	.04 each lb.
6,001- 7,000	.06 each lb.
7,001- 8,000	.08 each lb.
8,001-10,000	.15 each lb.
10,001 and over	.20 each lb.

(b) No part of the penalties prescribed by this section shall be suspended for a conviction of any of the following:

(1) Section 40001 for requiring operation of a vehicle upon a highway in violation of any provision referred to in this section.

(2) Any provision referred to in this section when the amount of the weight exceeds 4,000 pounds.

(3) Any provision referred to in this section when a second or subsequent conviction of a violation thereof occurs within three years immediately preceding the violation charged.

(c) However, notwithstanding any other provision of this section, the court shall exercise discretion with respect to the imposition of the fine under this section for excess weight not exceeding 1,000 pounds if the load of the vehicle cited consisted entirely of field-loaded, unprocessed bulk agricultural or forest products or livestock being transported from the field to the first point of processing or handling.

SEC. 11. The amendment and repeal of Section 35401 of the Vehicle Code that would be made by Sections 2 and 3 of this act shall not become operative unless Assembly Bill 1309 of the 1983–84 Regular Session of the Legislature is enacted to amend Section 35401 of the Vehicle Code.

SEC. 12. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 543

An act to add Section 56191.5 to the Government Code, relating to local agencies.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 56191.5 is added to the Government Code, to read:

56191.5. (a) If a petition for reorganization includes a proposal for the incorporation of a new city, the petition shall comply with the signature requirements set forth in Section 35130.

(b) Notwithstanding subdivision (a), the signature requirements which were applicable to a petition for a reorganization which became effective prior to January 1, 1985, and which included the incorporation of a new city, shall apply to any subsequent petition for a reorganization filed on or after January 1, 1985, which includes the incorporation of that city or of a city consisting of the same or substantially the same territory as that city.

SEC. 2. It is the intent of the Legislature in enacting this act to respond to the court's decision in the case of Horwath v. Local Agency Formation Com. (143 Cal. App. 3d 177) and to make plain that any proceeding conducted under the District Reorganization Act of 1965 which includes a proposal for the incorporation of a new city is subject to the petition signature requirements of the Municipal Organization Act of 1977, except for cities that incorporated before the effective date of this section.

CHAPTER 544

An act to amend Section 17363 of, and to add Section 17363.5 to, the Business and Professions Code, relating to communications equipment.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 17363 of the Business and Professions Code is amended to read:

17363. Notwithstanding any other provision of this chapter, Sections 17361 and 17362 do not apply to any of the following:

(a) Institutional advertising directed to a general audience rather than to individual purchasers of telephone equipment.

(b) Advertising, point-of-sale advertising, catalogs for, and sales of, telephone equipment not intended for direct connection to a telephone corporation's central switching office through the telephone corporation lines.

(c) Catalogs and equipment packages for telephone equipment which are in print or in physical production on or before November 1, 1983.

(d) Advertising by radio or television if the advertising includes a toll-free number by which a potential buyer may speak personally with a trained sales representative who orally provides the potential buyer with a disclosure statement containing both of the items required by Section 17361. The advertiser shall file the text of this

disclosure statement with the Director of Consumer Affairs and shall amend the filed statement, as needed, to conform to any changes made in the disclosure statement used by the advertiser.

SEC. 2. Section 17363.5 is added to the Business and Professions Code, to read:

17363.5. Any person advertising or offering for sale automatic dialing-announcing devices, as defined in Section 2871 of the Public Utilities Code, shall specify on all advertising therefor and in the instruction manual or other information included with the equipment that the equipment may be operated within California only in accordance with Article 1 (commencing with Section 2871) of Chapter 10 of Part 2 of Division 1 of the Public Utilities Code. The person shall also provide a full copy of that article to each purchaser of the equipment, and shall also provide a full copy to each prospective purchaser upon request.

CHAPTER 545

An act to add Section 22391 to the Business and Professions Code, and to add Sections 1812.66, 1812.105, and 1812.221 to the Civil Code, relating to distribution of deposits.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 22391 is added to the Business and Professions Code, to read:

22391. (a) When a deposit has been made in lieu of bond pursuant to Section 22389 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of the provisions of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 22390.

(b) When a person has completely established the claim with the Secretary of State, the Secretary of State shall forthwith review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Forthwith upon the expiration of the 240-day period, the Secretary of State shall pay all approved

claims from that 240-day period in full unless there are insufficient funds in the deposit account in which case each approved claim shall be paid a proportionate amount to exhaust the deposit account.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to make a contribution back to the deposit account for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the invention developer, other than as to an amount no longer needed or required for the purpose of this chapter which would otherwise be returned to the invention developer by the Secretary of State.

SEC. 2. Section 1812.66 is added to the Civil Code, to read:

1812.66. (a) When a deposit has been made in lieu of bond pursuant to Section 1812.64 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of the provisions of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 1812.65.

(b) When a person has completely established the claim with the Secretary of State, the Secretary of State shall forthwith review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Forthwith upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless there are insufficient funds in the deposit account in which case each approved claim shall be paid a proportionate amount to exhaust the deposit account.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims

paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to make a contribution back to the deposit account for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the dance studio, other than as to an amount no longer needed or required for the purpose of this title which would otherwise be returned to the dance studio by the Secretary of State.

SEC. 3. Section 1812.105 is added to the Civil Code, to read:

1812.105. (a) When a deposit has been made in lieu of bond pursuant to Section 1812.103 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of the provisions of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in Section 1812.104.

(b) When a person has completely established the claim with the Secretary of State, the Secretary of State shall forthwith review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Forthwith upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless there are insufficient funds in the deposit account in which case each approved claim shall be paid a proportionate amount to exhaust the deposit account.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to make a contribution back to the deposit account for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the discount buying organization, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the discount buying organization by the Secretary of State.

SEC. 4. Section 1812.221 is added to the Civil Code, to read:

1812.221. (a) When a deposit has been made in lieu of bond pursuant to paragraph (1) of subdivision (b) of Section 1812.214 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of the provisions of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in paragraph (2) of subdivision (b) of Section 1812.214.

(b) When a person has completely established the claim with the Secretary of State, the Secretary of State shall forthwith review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Forthwith upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless there are insufficient funds in the deposit account in which case each approved claim shall be paid a proportionate amount to exhaust the deposit account.

(d) When the Secretary of State approves the first claim against a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to the amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (c) and (d) shall not be required to make a contribution back to the deposit account for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the seller, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the seller by the Secretary of State.

SEC. 5. It is the intent of the Legislature that the provisions of each of subdivisions (f) of Section 22391 of the Business and Professions Code and of Sections 1812.66, 1812.105, and 1812.221 of the Civil Code are to be considered to be declaratory of the existing law.

CHAPTER 546

An act to amend Sections 1800, 1801, and 1801.5 of the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1800 of the Welfare and Institutions Code is amended to read:

1800. Whenever the Youthful Offender Parole Board determines that the discharge of a person from the control of the Youth Authority at the time required by Section 1766, 1769, 1770, 1770.1, or 1771, as applicable, would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality, the board, through its chairman, shall request the prosecuting attorney to petition the committing court for an order directing that the person remain subject to the control of the authority beyond that time. The petition shall be filed at least 90 days before the time of discharge otherwise required. The petition shall be accompanied by a written statement of the facts upon which the board bases its opinion that discharge from control of the Youth Authority at the time stated would be physically dangerous to the public, but no such petition shall be dismissed nor shall an order be denied merely because of technical defects in the application.

The prosecuting attorney shall promptly notify the Youthful Offender Parole Board of a decision not to file a petition.

SEC. 2. Section 1801 of the Welfare and Institutions Code is amended to read:

1801. If a petition is filed with the court for an order as provided in Section 1800, the court shall notify the person whose liberty is involved, and. if the person is a minor, his or her parent or guardian (if that person can be reached, and, if not, the court shall appoint a person to act in the place of the parent or guardian) of the application, and shall afford the person an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence. When the person is unable to provide his or her own counsel, the court shall appoint counsel to represent him or her.

If after a full hearing the court is of the opinion that discharge of the person would be physically dangerous to the public because of his or her mental or physical deficiency, disorder, or abnormality, the court shall order the Youth Authority to continue the treatment of the person. If the court is of the opinion that discharge of the person from continued control of the authority would not be physically dangerous to the public, the court shall order the person to be discharged from control of the authority.

SEC. 3. Section 1801.5 of the Welfare and Institutions Code is amended to read:

1801.5. If the person is ordered returned to the Youth Authority following a hearing by the court, the person, or his or her parent or guardian on the person's behalf, may, within 10 days after the making of such order, file a written demand that the question of whether he or she is physically dangerous to the public be tried by a jury in the superior court of the county in which he or she was committed. Thereupon, the court shall cause a jury to be summoned and to be in attendance at a date stated, not less than four days nor more than 30 days from the date of the demand for a jury trial. The court shall submit to the jury the question: Is the person physically dangerous to the public because of his mental or physical deficiency, disorder, or abnormality? The court's previous order entered pursuant to Section 1801 shall not be read to the jury, nor alluded to in such trial. The person shall be entitled to all rights guaranteed under the federal and state constitutions in criminal proceedings. The trial shall require a unanimous jury verdict, employing the standard of proof beyond a reasonable doubt.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 547

An act to amend Section 79150 of the Education Code, relating to community college districts.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 79150 of the Education Code is amended to read:

79150. The Chancellor's office of the California Community Colleges, in cooperation with the State Department of Social Services and the State Employment Development Department, may enter into agreements with community college districts, which, prior

to July 1, 1984, established cooperative agencies resources for education programs, for the purpose of providing additional funds for support services for those programs. Support services shall include, but not be limited to, child care and transportation allowances, books and supplies, counseling, and other related services.

SEC. 2. It is the intent of the Legislature that the Santa Barbara Community College District and other community college districts meeting the criteria for the cooperative agencies resources for education programs receive funding in the Budget Act of 1984 for the expansion of those programs.

CHAPTER 548

An act to amend Sections 17203.1, 17207, and 17320 of, and to add Section 17314.1 to, the Financial Code, relating to escrow agents.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 17203.1 of the Financial Code is amended to read:

17203.1. (a) All officers, directors, trustees, and employees of an escrow agent, whether or not compensated, who have access to money or negotiable securities belonging to the escrow agent or in the possession of the escrow agent in the regular discharge of their duties, or persons who draw checks upon the escrow agent or upon the trust funds of the escrow agent in the regular discharge of their duties, before entering upon their duties and throughout the entire term of their office and employment and any subsequent term thereof, shall furnish to the escrow agent a bond indemnifying the escrow agent against loss of money or property. No officer, director, trustee, or employee shall enter upon their duties or have access to money or negotiable securities or draw checks upon the escrow agent or the trust funds of an escrow agent prior to complying with such rules as the commissioner shall adopt with respect to the qualifications of these officers, directors, trustees, or employees to assume their duties.

The commissioner shall prescribe the aggregate amount of the bond and the terms during which the bond runs. The sufficiency of the sureties on the bond are at all times subject to the approval of the commissioner. The bond shall be filed in the commissioner's office. The aggregate liability of the surety for all claims shall in no event exceed the penal sum of the bond.

(b) The commissioner may at any time require an additional bond or surety to be filed when in the commissioner's opinion any bond

then in force is insufficient for any reason.

SEC. 2. Section 17207 of the Financial Code is amended to read:

17207. The commissioner shall charge and collect the following fees and assessments:

(a) For filing an application for an escrow agent's license, six hundred twenty-five dollars ($625) for the first office or location and four hundred twenty-five dollars ($425) for each additional office or location.

(b) For filing an application for a duplicate of an escrow agent's license lost, stolen, or destroyed, or for replacement, upon a satisfactory showing of such loss, theft, destruction, or surrender of certificate for replacement, two dollars ($2).

(c) For investigation services in connection with each application, one hundred dollars ($100), and for investigation services in connection with each additional office application, one hundred dollars ($100).

(d) For holding a hearing in connection with the application, as set forth under Section 17209.2, the actual costs experienced in each particular instance.

(e) (1) Each escrow agent shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner for the ensuing year, and of any deficit actually incurred or anticipated in the administration of this division in the year in which the assessment is made. The total assessment for each year shall not exceed the amount of the first assessment following the effective date of this subdivision adjusted for changes in the cost of living. As used in this subdivision "cost of living" means the Consumer Price Index for the United States as reported by the United States Department of Labor or a successor agency of the United States government. The pro rata share shall be the proportion which a licensee's gross income from escrow operations bears to the aggregate gross income from escrow operations of all licensees as compiled by the commissioner. The pro rata share shall not include the costs of any examinations provided for in Section 17405.1, unless they cannot be collected from the company examined.

(2) On or before May 30 in each year, the commissioner shall notify each escrow agent by mail of the amount assessed and levied against it, and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment, of 10 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(3) In the levying and collection of the assessment, an escrow agent shall not be assessed for, nor be permitted to pay less than, two hundred fifty dollars ($250) per year, per location.

(4) If an escrow agent fails to pay the assessment on or before the June 30 following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the

certificate issued to the company. If, after such an order is made, a request for a hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a company shall not conduct business pursuant to this division, except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(f) Fifty dollars ($50) for investigation services in connection with each application for qualification of any person under Section 17200.8, other than investigation services under subdivision (c) of this section.

(g) A fee not to exceed twenty-five dollars ($25) for the filing of a notice or report required by rules adopted pursuant to subdivision (a) or Section 17203.1.

SEC. 3. Section 17314.1 is added to the Financial Code, to read:

17314.1. Notwithstanding any other provision of this article, Guaranty Corporation shall not be obligated to pay any claim made by a member unless the claim would, except for the dollar amount thereof, be a valid claim under the bond as prescribed by Section 17203.1. The protection to members provided by Guaranty Corporation and by the fidelity bond shall therefore be deemed to be coextensive except as to the dollar amounts as set forth in Section 17314. All defenses available to the insurer under the fidelity bond on any claim shall also be a defense to Guaranty Corporation on any claim brought against the corporation. No one other than a member of Guaranty Corporation is entitled to assert a claim against Guaranty Corporation for losses covered under this article.

SEC. 4. Section 17320 of the Financial Code is amended to read:

17320. Guaranty Corporation shall establish and maintain a guaranty fund as follows:

(a) Upon organization and establishment of the Guaranty Corporation, each member shall pay to Guaranty Corporation a membership fee of two thousand two hundred fifty dollars ($2,250) for each member's licensed location. The membership fee shall be paid in three annual installments of seven hundred fifty dollars ($750) each on or before April 15 of each year.

(b) Each person licensed pursuant to this division who becomes a member subsequent to the organization and establishment of Guaranty Corporation shall also pay to Guaranty Corporation a membership fee of two thousand two hundred fifty dollars ($2,250) for each member's licensed location. The first installment of the membership fee of seven hundred fifty dollars ($750) shall be paid to Guaranty Corporation prior to the time the license is issued by the commissioner for each location. The second and third installments of the membership fee of seven hundred fifty dollars ($750) each shall be paid on or before April 15 of the first and second year, respectively, subsequent to the year in which the license is issued.

Guaranty Corporation shall not deny membership to any escrow agent holding a valid unrevoked license under the Escrow Law.

(c) A member who is granted authority by the commissioner to establish additional licensed locations shall pay to Guaranty Corporation, at the same time the authority is granted by the commissioner, the first installment of the membership fee for each licensed location. The second and third installments of the membership fee of seven hundred fifty dollars ($750) shall be paid on or before April 15 of the first and second years, respectively, subsequent to the year in which the authority is granted by the commissioner.

(d) For the purpose of the annual assessment of each member to maintain the guaranty fund, Guaranty Corporation shall establish a guaranty fund account for each member, which shall require a cash payment from each member equal to the greater of the membership fee for each licensed location or 1 percent of the member's monthly average trust obligations as reported to the commissioner pursuant to Section 17348. If on April 15 of the fourth year of membership the member's guaranty fund account does not equal the greater of the membership fee for each licensed location or 1 percent of the member's monthly average trust obligations, then Guaranty Corporation shall assess the member as follows:

(1) First, the remaining annual installments on the membership fee as set forth in subdivision (a) of Section 17320.

(2) Then, after the membership fee is paid in full, an amount based on the member's average monthly trust obligations as follows:

(A) Six one hundredths of 1 percent of the average monthly trust obligations up to five hundred thousand dollars ($500,000) plus

(B) Four one hundredths of 1 percent of the average monthly trust obligations from five hundred thousand one dollars ($500,001) to one million dollars ($1,000,000) plus

(C) Two one hundredths of 1 percent of the average monthly trust obligations in excess of one million dollars ($1,000,000).

Provided, however, in no event will a member be required to pay an annual assessment greater than seven hundred fifty dollars ($750) per licensed location.

(e) Whenever Guaranty Corporation is requested by a member to pay that member for loss of trust obligations as a result of embezzlement, theft, or mysterious disappearance, Guaranty Corporation shall pay its liability from the guaranty fund under Section 17314 by first charging the requesting member's guaranty fund account and then, to the extent that the member's guaranty fund account is insufficient to satisfy the claim, Guaranty Corporation shall charge the guaranty fund accounts of all members by an amount determined by the following formula: an amount resulting from multiplying the balance of the claim by a number, the numerator of which is a member's guaranty fund account and the denominator of which is the total of all members' guaranty fund accounts. Thereafter, Guaranty Corporation shall immediately assess

the member filing the claim the amount charged to that member's guaranty fund account and immediately assess all members the amount charged to their guaranty fund accounts, if any, as provided for in Section 17321.

(f) In the event the amount in the guaranty fund equals 2 percent or more of the total average trust obligations for all members as reflected in the most recent report required by Section 17348, Guaranty Corporation may remit to each member an amount in the guaranty fund in excess of 1½ percent of the total trust obligations of all members. The amount which may be remitted to each member shall be an amount equal to the ratio of the member's guaranty fund account to the total amount of all members' guaranty fund accounts. If a member has not paid any assessment or has not paid the full amount of any assessment or a membership fee, the amount to be remitted shall first be applied to pay the member's unpaid assessment or membership fee liability.

(g) The membership fee may be considered a tangible asset of the member in all financial statements.

(h) Whenever any member has surrendered its license to engage in business as an escrow agent (and the commissioner has accepted the surrender of the license), and the member has disbursed its trust obligations in accordance with the requirements of the Escrow Law and escrow instructions, a member may request Guaranty Corporation to refund to the member the balance of its guaranty fund account. The member's guaranty fund account shall be refunded in accordance with Guaranty Corporation's bylaws. However, no refund shall be made to any member sooner than 24 months and one day from the date of acceptance of surrender of the license by the commissioner.

SEC. 5. The Commissioner of Corporations shall adopt emergency regulations to implement Sections 1 and 2 of this act to become operative on or before January 15, 1985.

CHAPTER 549

An act to amend Section 6509 of the Business and Professions Code, relating to barbers.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 6509 of the Business and Professions Code is amended to read:

6509. For the purpose of enforcing this chapter, the board's executive officer, or, except as provided by Section 159.5, the board's agents or assistants may enter into and inspect any barbershop or

college at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on.

Any member of the board may enter and visit any barbershop or college at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on. This visitation by a board member shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 2. Section 6509 of the Business and Professions Code is amended to read:

6509. For the purpose of enforcing this chapter, the board's executive officer, or, except as provided by Section 159.5, the board's agents or assistants may enter into and inspect any barbershop, college, or apprentice training program at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on.

Any member of the board may enter and visit any barbershop, college, or apprentice training program at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on. This visitation by a board member shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 3. Section 2 of this bill incorporates amendments to Section 6509 of the Business and Professions Code proposed by both this bill and AB 3623. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 6509 of the Business and Professions Code, and (3) this bill is enacted after AB 3623, in which case Section 1 of this bill shall not become operative.

CHAPTER 550

An act to amend Section 6084 of, and to add Section 5950 to, the Harbors and Navigation Code, relating to harbor districts.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 5950 is added to the Harbors and Navigation Code, to read:

5950. The board of supervisors may manage the business of the district and promote the commercial interest of the harbor by advertisement of its advantages and by the solicitation of business within or without the district, in other states, or in foreign countries, through employees or agencies as are expedient, and it may organize, promote, conduct, and advertise programs of community

recreation and the advantages of the district's park and recreational facilities.

Nothing in this section authorizes revenues derived from tide and submerged lands granted in trust by the state to a district, or from lands acquired with those trust revenues, to be used by the district for any purpose other than for proper trust purposes on the granted lands, or for the acquisition, improvement, and maintenance of property adjacent to the granted lands when the property is necessary to further the purposes of the trust grant.

SEC. 2. Section 6084 of the Harbors and Navigation Code is amended to read:

6084. Notwithstanding any other provision of this part, the board may borrow money by issuance of promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of one million dollars ($1,000,000), for the purposes of acquiring land for and constructing or operating any work, project, or facility authorized by subdivision (d) of Section 6012 or Section 6075 or for the making of improvements or the purchase of equipment or for the maintenance thereof.

All moneys borrowed pursuant to this section shall not be borrowed for a term exceeding five years, and the indebtednesses shall not incur a rate of interest in excess of 12 percent per annum. The indebtedness shall be authorized by a resolution of the board of commissioners adopted by a two-thirds vote of the members of the board.

As a condition precedent to the borrowing of any money or the execution of any conditional sales contract, as provided in this section, in excess of one hundred thousand dollars ($100,000), the board shall first by a two-thirds vote approve by resolution and have on file a report on the engineering and economic feasibility relating to the project contemplated for the expenditure of the borrowed money or conditional sales contract. The feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

The district shall budget, levy, and collect taxes and pay for all indebtedness without limitation by any other provision of this part.

CHAPTER 551

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

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1 Notwithstanding the provisions of Sections 54902, 54902.1, and 54903 of the Government Code, the formation of any county service area benefit assessment district, for vector control purposes, which was approved by the voters on or before June 5, 1984, is effective for assessment and taxation purposes for the 1984–85 fiscal year, if the required statements and map or plat are filed on or before August 31, 1984.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

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

In order that local governmental units formed for the purpose of providing vector control services, and approved by the voters of the affected areas, may begin operating and providing those needed services as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 552

An act to repeal and add Section 1535 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984.]

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

SECTION 1. Section 1535 of the Health and Safety Code is repealed.

SEC. 2. Section 1535 is added to the Health and Safety Code, to read:

1535. (a) On or before January 1, 1986, the state department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed community care facility. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care Facilities, the State Department of Aging, the State Department of Mental Health, and the State Department of Alcohol and Drug Programs.

(b) The consumer guideline brochure shall include, but not be

limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a community care facility, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a community care facility.

(c) Upon publication, the consumer guideline brochures shall be distributed to statewide community care facility resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed community care facilities. The brochure shall be made available on request to all other interested persons.

CHAPTER 553

An act to amend Sections 1700.4, 1700.44, 1703, and 1704 of the Labor Code, relating to talent agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 17, 1984]

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

SECTION 1. Section 1700.4 of the Labor Code, as amended by Section 1 of Chapter 682 of the Statutes of 1982, is amended to read:

1700.4. (a) A talent agency is hereby defined to be a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists, except that the activities of procuring, offering, or promising to procure recording contracts for an artist or artists shall not of itself subject a person or corporation to regulation and licensing under this chapter. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures; radio artists; musical artists; musical organizations; directors of legitimate stage, motion picture and radio productions; musical directors; writers; cinematographers; composers; lyricists; arrangers; and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

(b) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 2. Section 1700.4 of the Labor Code, as added by Section 2

of Chapter 682 of the Statutes of 1982, is amended to read:

1700.4. (a) A talent agency is hereby defined to be a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate stage, motion picture and radio productions, musical directors, writers, cinematographers, composers, lyricists, arrangers, and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

(b) This section shall become operative on January 1, 1986.

SEC. 3. Section 1700.44 of the Labor Code, as amended by Section 3 of Chapter 682 of the Statutes of 1982, is amended to read:

1700.44. In cases of controversy arising under this chapter the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo. To stay any award for money, the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than one thousand dollars ($1,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he has by investigation established that there is no dispute as to the amount of the fee due. Service of such certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and such certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

No action or proceeding may be prosecuted under this chapter with respect to any violation occurring or alleged to have occurred more than one year prior to commencement of the action or proceeding.

It shall not be unlawful for a person or corporation who is not licensed under this chapter to act in conjunction with, and at the request of, a duly licensed and franchised talent agency in the negotiations of an employment contract.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 4. Section 1700.44 of the Labor Code, as added by Section 4 of Chapter 682 of the Statutes of 1982, is amended to read:

1700.44. (a) In cases of controversy arising under this chapter the parties involved shall refer the matters in dispute to the Labor

Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the superior court where the same shall be heard de novo. To stay any award for money, the party aggrieved shall execute a bond approved by the superior court in a sum not exceeding twice the amount of the judgment. In all other cases the bond shall be in a sum of not less than one thousand dollars ($1,000) and approved by the superior court.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he has by investigation established that there is no dispute as to the amount of the fee due. Service of such certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and such certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

This section shall become operative on January 1, 1986.

SEC. 5. Section 1703 of the Labor Code is amended to read:

1703. The commission shall report to the Legislature and the Governor not later than January 1, 1986. All expenses of the commission shall be appropriated in the Budget Act.

SEC. 6. Section 1704 of the Labor Code is amended to read:

1704. This article shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the time for the report of the California Entertainment Commission to the Legislature and the Governor from October 1, 1984, until January 1, 1986, it is necessary for this act to take effect immediately.

CHAPTER 554

An act to amend Section 5412 of the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 5412 of the Business and Professions Code is amended to read:

5412. Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary

maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located.

This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity.

"Relocation," as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays.

CHAPTER 555

An act to add Chapter 2.5 (commencing with Section 26568) to Division 17 of the Public Resources Code, relating to geologic hazards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1 The Legislature finds and declares that the Geologic Hazard Abatement District Law (Division 17 (commencing with Section 26500) of the Public Resources Code) does not presently provide for the creation of a district to prevent,

abate, mitigate, or control an imminent geologic hazard on relatively short notice to avert an impending peril to persons, land, and improvements within the proposed district.

The Legislature further finds and declares that the normal time span required under the law for notice and an opportunity to be heard on the issue of the formation of such a district may result in the inability of the local agency to respond to the geologic hazard emergency in sufficient time to avert loss of life or property and that the public health, safety, and welfare require that the time for notice and an opportunity to be heard on the issue of formation should be shortened. Therefore, the Legislature deems it appropriate to create an alternative method whereby the local agency can quickly form a district in order to avert or mitigate the imminent threat of large-scale damage to persons and property within the proposed district.

SEC. 2. Chapter 2.5 (commencing with Section 26568) is added to Division 17 of the Public Resources Code, to read:

CHAPTER 2.5. EMERGENCY FORMATION

Article 1. Initiation of Proceedings

26568. The procedures for initiation of proceedings, notice, and hearing and formation of a district under this chapter shall be alternative to the procedures in Articles 3 (commencing with Section 26550) and 4 (commencing with Section 26561) of Chapter 2. Chapter 3 (commencing with Section 26570) does not apply to districts formed under this chapter.

26568.1. Proceedings for the formation of a district for any of the work specified in Section 26525 may be initiated by a petition signed by two-thirds of the property owners of the real property to be included within the proposed district.

26568.2. A petition initiating proceedings for the formation of a district under this chapter shall contain substantially all of the following:

(a) A statement that the petition is made pursuant to this chapter.

(b) An indication, opposite each signature, of the lot, tract, and map number, or other legal description sufficient to identify the signature as that of the owner of land within the proposed district.

(c) The reasons necessitating the creation of the district under this chapter.

(d) A request that the time set for hearings on the formation of the district be on short notice and the reason or reasons for the request.

(e) A description of, or proposal for, work to be done, an estimate of the cost of the work, and proposed assessments.

26568.3. (a) Upon presentation to the legislative body of a petition in the form prescribed by Section 26568.2, the legislative body shall adopt a resolution setting a public hearing on short notice

on the petition and directing that notice of the hearing be given as provided in Section 26569. However, notice of the hearing shall be omitted if the hearing of objections is not required as provided in subdivision (b). The hearing shall be set no earlier than 15 days after the adoption of the resolution under this subdivision.

(b) The hearing of objections shall not be required if the legislative body, when considering the passage of a resolution of intention pursuant to a petition presented pursuant to Section 26568.1, finds and determines by a four-fifths vote of all members thereof, that all of the owners of lots or lands liable to be assessed have signed and filed a petition with the clerk on or before the day that the resolution of intention is to be considered for passage, waiving the hearing, declaring that they do not have any objections to the proposed work or the formation of the district, and requesting that the hearings of objections not be required.

Article 2. Notice and Hearing

26569. Notice of the hearing on short notice set pursuant to Section 26568.3 shall be as follows:

(a) Published notice shall be made pursuant to Section 6061 of the Government Code and shall be completed at least 10 days prior to the date of the hearing. Published notice shall include a copy of the petition described in Section 26568.2.

(b) Mailed notice shall be sent by first-class mail, with return receipt requested, and postmarked not less than 10 days preceding the date of the public hearing. A copy of the petition described in Section 26568.2 shall be attached to the notice.

26569.1. At any time no later than the time set for hearing, any owner of real property within the proposed district may file with the clerk, a written protest to the formation of the district. A written protest shall contain a description of the land by lot, tract, and map number and shall be signed by the owner.

26569.2. At the time set for hearing objections, the legislative body shall be presented with all objections made pursuant to Section 26568.1.

26569.3. If it appears at the hearing that the owners of more than one-third of the real property to be included within the proposed district object to the formation thereof, the proceedings for the formation of the district shall be abandoned.

26569.4. If a protest by the owners of more than one-third of the real property to be included in the district has not been filed, the legislative body may adopt a resolution ordering the improvements and the formation of the assessment district. The adoption of the resolution constitutes the levy of an assessment for the fiscal year referred to in the assessment.

Article 3. Nature of the District

26569.5. A district formed under this chapter shall be comprised of an area within a local agency which is specially benefited by, and is subject to a special assessment to pay of the cost of, an improvement. The district is not an entity separate and distinct from the local agency within which it is formed.

26569.6. The legislative body shall appoint itself to act as board of directors of the district.

26569.7. This chapter is applicable only in a city or county which has adopted an ordinance providing that the chapter is applicable in its jurisdiction.

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

In order that this act may provide a method for the quick formation of a district to avert or mitigate the imminent threat of a geologic hazard at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 556

An act relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. (a) The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to Section A of the State School Fund for allocation by the Superintendent of Public Instruction as a loan to the Brea-Olinda Unified School District for the elimination of asbestos hazards in the district.

(b) The Brea-Olinda Unified School District shall repay the amount appropriated in subdivision (a), together with interest at a rate based on the rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district, in accordance with Section 41323 of the Education Code, in four installments to be paid in the 1985–86, 1986–87, 1987–88, and 1988–89 fiscal years. The entire amount of the debt, plus interest, shall be repaid by June 30, 1989.

(c) Due to unique circumstances concerning the Brea-Olinda Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of

Section 16 of Article IV of the California Constitution.

SEC. 2. If AB 2377 is chaptered and becomes effective, the Brea-Olinda Unified School District shall be eligible to receive an apportionment pursuant to Section 39619.8 of the Education Code, as added by Section 4 of AB 2377, not to exceed one hundred seventy-five thousand dollars ($175,000), which the district may use to repay the loan received by the district pursuant to this act.

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

In order to eliminate asbestos hazards in the Brea-Olinda Unified School District at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 557

An act to add Sections 1515.5, 1684.3, and 1700.14 to the Labor Code, relating to licensing.

[Approved by Governor July 17 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 1515.5 is added to the Labor Code, to read:

1515.5. Whenever an application for registration or renewal is made, and application processing pursuant to this chapter has not been completed, the Labor Commissioner may, at his or her discretion, issue a temporary or provisional registration valid for a period not exceeding 90 days, and subject, where appropriate, to the automatic and summary revocation by the Labor Commissioner. Otherwise, the conditions for issuance or renewal shall meet the requirements of Section 1511.

SEC. 2. Section 1684.3 is added to the Labor Code, to read:

1684.3. Whenever an application for a license or renewal is made, and application processing pursuant to this chapter has not been completed, the Labor Commissioner may, at his or her discretion, issue a temporary or provisional license valid for a period not exceeding 90 days, and subject, where appropriate, to the automatic and summary revocation by the Labor Commissioner. Otherwise, the conditions for issuance or renewal shall meet the requirements of Section 1684.

SEC. 3. Section 1700.14 is added to the Labor Code, to read:

1700.14. Whenever an application for a license or renewal is made, and application processing pursuant to this chapter has not been completed, the Labor Commissioner may, at his or her discretion, issue a temporary or provisional license valid for a period

not exceeding 90 days, and subject, where appropriate, to the automatic and summary revocation by the Labor Commissioner. Otherwise, the conditions for issuance or renewal shall meet the requirements of Section 1700.6.

CHAPTER 558

An act to amend Sections 20222, 20757, and 21175 of, and to add Section 20029 to, the Food and Agricultural Code, relating to cattle, and making an appropriation therefor.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 20029 is added to the Food and Agricultural Code, to read:

20029. "Shipper" means any person who transfers cattle from one geographical location to another.

SEC. 2. Section 20222 of the Food and Agricultural Code is amended to read:

20222. Any person who uses an unrecorded, forfeited, or canceled brand shall pay a penalty upon a first violation of one hundred dollars ($100); upon a second violation within the same 12-month period, a penalty of two hundred dollars ($200); and upon a third or subsequent violation within the same 12-month period, a penalty of five hundred dollars ($500), which is in addition to any other penalty provided by law.

SEC. 3. Section 20757 of the Food and Agricultural Code is amended to read:

20757. (a) Except as provided in subdivision (b), the fee for rerecording a forfeited or canceled brand shall be one hundred dollars ($100). This amount shall accompany the application to rerecord.

(b) When a penalty has been paid pursuant to Section 20222, within 30 days of the date the application to rerecord is received by the director, the fee to rerecord shall be fifty dollars ($50).

SEC. 4. Section 21175 of the Food and Agricultural Code is amended to read:

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

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

(b) Any person failing to cut out or identify stray animals which are shipped without inspection or shipped for inspection at destination shall pay a penalty upon a first violation of fifty dollars ($50) for each animal; upon a second violation within the same 12-month period, a penalty of one hundred dollars ($100) for each animal; upon a third violation within the same 12-month period, a penalty of two hundred dollars ($200) for each animal; and upon the fourth or subsequent violation within the same 12-month period, a penalty of five hundred dollars ($500) for each animal to the Bureau of Livestock Identification which is in addition to any other penalty provided by law.

(c) For purposes of determining subsequent violations, each shipment of cattle to a single destination point in one calendar day constitutes one violation.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 559

An act to add Section 5349 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 5349 is added to the Food and Agricultural Code, to read:

5349. (a) It is unlawful for the operator of a vehicle to intentionally route the vehicle and travel on that route in order to prevent the vehicle from passing through a plant quarantine inspection station.

(b) Notwithstanding Section 5309, a violation of this section is a misdemeanor.

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

eliminates a crime or infraction.

CHAPTER 560

An act to amend Section 10145 of the Business and Professions Code, relating to real estate licensees.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984]

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

SECTION 1. Section 10145 of the Business and Professions Code is amended to read:

10145. (a) A real estate broker who accepts funds belonging to others in connection with any transaction subject to this part shall deposit all such funds which are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.

(b) A real estate broker acting as a principal pursuant to Section 10131.1 or Article 6 (commencing with Section 10237) of this part shall place all funds received from others for the purchase of real property sales contracts or promissory notes secured directly or collaterally by liens on real property in a neutral escrow depository unless delivery of the contract or note is made simultaneously with the receipt of the purchase funds.

(c) A real estate sales person who accepts trust funds from others on behalf of the broker under whom he or she is licensed, shall immediately deliver the funds to the broker or, if so directed by the broker, shall place the funds into the hands of the broker's principal, into a neutral escrow depository, or shall deposit the funds into the broker's trust fund account.

(d) If not otherwise expressly prohibited by a provision of this part, a real estate broker may, at the request of the owner of trust funds or of the principals to a transaction or series of transactions from whom the broker has received trust funds, deposit the funds into an interest-bearing account in a bank or savings and loan association, if all of the following requirements are met:

(1) The account is in the name of the broker as trustee for the specified beneficiary or specified principal of a transaction or series of transactions.

(2) All of the funds in the account are covered by insurance provided by an agency of the federal government.

(3) The funds in the account are kept separate, distinct, and apart

from funds belonging to the broker or to any other person for whom the broker holds funds in trust.

(4) The broker discloses to the person from whom the trust funds are received and to any beneficiary whose identity is known to the broker at the time of establishing the account the nature of the account, how interest will be calculated and paid under various circumstances, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.

(5) No interest earned on funds in the account shall inure directly or indirectly to the benefit of the broker nor to any person licensed to the broker.

(6) In an executory sale, lease, or loan transaction in which the broker accepts funds in trust to be applied to the purchase, lease, or loan, the parties to the contract shall have specified in the contract or by collateral written agreement the person to whom interest earned on the funds is to be paid or credited.

(e) The broker shall have no obligation to place trust funds into an interest-bearing account unless requested to do so and unless all of the conditions in subdivision (d) are met; nor, in any event, if he or she advises the party making the request that the funds will not be placed in an interest-bearing account.

(f) Nothing in subdivision (d) shall preclude the commissioner from prescribing by regulation circumstances in which and conditions under which a real estate broker is authorized to deposit funds received in trust into an interest-bearing trust fund account.

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds.

(h) Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of any such trust fund accounts maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

(i) As used in this section "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any person described in subdivision (a) of Section 17006 and subdivision (c) of Section 17006 of said code.

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

CHAPTER 561

An act to amend Section 16482 of, and to add Section 16472.5 to, the Public Utilities Code, relating to public utility districts.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 16472.5 is added to the Public Utilities Code, to read:

16472.5. In order to enforce the provisions of any ordinance of the district, including an ordinance fixing charges for the furnishing of commodities or services, the district may correct any violation of an ordinance of the district. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance of the district or for the issuance of an order stopping or disconnecting a service if the charges for that service are unpaid at the time specified in the ordinance.

SEC. 2. Section 16482 of the Public Utilities Code is amended to read:

16482. (a) No district furnishing its inhabitants with light, water, power, heat, or means for the disposition of garbage, sewage, or refuse matter may terminate residential service on account of nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, at least seven days prior to the proposed termination, by first-class mail addressed to the customer to whom the service is billed.

(b) No such district shall terminate service to any residence for nonpayment during the pendency of an investigation by the district of a customer dispute or complaint.

(c) Any customer who has initiated a complaint or requested an investigation within five days of receiving the contested bill under subdivision (b) shall be given an opportunity for review of the complaint or investigation by a review manager of the district. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time. No termination shall be effected for any customer complying with an amortization agreement if the customer also keeps the account for utility service current as charges accrue in each subsequent billing period.

(d) If a customer fails to comply with an amortization agreement, the district shall not terminate service without giving notice to the customer, in accordance with subdivision (a), of the conditions the customer must meet to avoid termination, but this notice shall not entitle the customer to further investigation by the district.

SEC. 3. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 562

An act to amend Sections 6702 and 18819 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 6702 of the Revenue and Taxation Code is amended to read:

6702. (a) If any person is delinquent in the payment of the amount required to be paid by him or her or in the event a determination has been made against him or her which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department, or agency, the notice shall be given to the officer, department, or agency prior to the time it presents the claim of the delinquent taxpayer to the Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith after receipt of the notice advise the board of all those credits, other personal property, or debts in their possession, under their control, or owing by them.

(b) If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or a state or federal savings and loan association or other credits or personal property in the possession or under the control of a bank or a state or federal savings and loan association, the notice to be effective shall state the amount, interest, and penalty

due from the person, and shall be delivered or mailed to the branch or office of the bank or a state or federal savings and loan association at which the deposit is carried or at which the credits or personal property is held. A bank, state or federal savings and loan association, or a state or federal credit union withholding any deposit or other credits or personal property required to be withheld in which the delinquent taxpayer and another person or persons have an interest, or held in the name of a third party or parties in which the delinquent taxpayer is ultimately determined to have no interest, is not liable therefor to any of the persons who have an interest in the deposit or other credits or personal property unless the deposit or other credits or personal property is released or transferred to the delinquent taxpayer.

(c) In the case of a deposit or other credits or personal property for which the transfer or other disposition is prevented, the depository institution required to prevent transfer or other disposition shall send a notice by first-class mail to each person named on a deposit, other credits, or personal property included in the notice from the board, provided a current address for each person is available to the institution. This notice shall inform each person as to the reason for preventing transfer or disposition of the deposit or other credits or personal property, the amount thereof which is prevented from transfer or other disposition, and the date by which that amount is to be remitted to the board. An institution may assess the deposit or other credits or personal property of each person receiving this notice a reasonable service charge not to exceed three dollars ($3).

(d) Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank or a state or federal savings and loan association, the aggregate amount of deposits, credits, or personal property to be withheld shall be an amount equal to two times the amount of the tax, interest, or penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld, to the extent of the value of the property or the amount of the debts thus transferred or paid he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of that transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

SEC. 2. Section 18819 of the Revenue and Taxation Code is amended to read:

18819. (a) Any employer or person required to withhold and transmit any amount pursuant to this article shall comply with the requirement without resort to any legal or equitable action in a court of law or equity. Any employer or person paying to the Franchise Tax Board any amount required by it to be withheld is not liable therefor

to the person from whom withheld unless the amount withheld is refunded to the withholding agent; provided, however, that if a depository institution, as defined in subparagraph (A) of paragraph 1 of subdivision (b) of Section 461 of Title 12 of the United States Code withholds and pays to the Franchise Tax Board pursuant to this article any moneys held in a deposit account in which the delinquent taxpayer and another person or persons have an interest, or in an account held in the name of a third party or parties in which the delinquent taxpayer is ultimately determined to have no interest, the depository institution paying those moneys to the Franchise Tax Board is not liable therefor to any of the persons who have an interest in the account, unless the amount withheld is refunded to the withholding agent.

(b) In the case of a deposit account or accounts for which this notice to withhold applies, the depository institution shall send a notice by first-class mail to each person named on the account or accounts included in the notice from the Franchise Tax Board, provided a current address for each person is available to the institution. This notice shall inform each person as to the reason for the hold placed on the account or accounts, the amount subject to being withheld, and the date by which this amount is to be remitted to the Franchise Tax Board. An institution may assess the account or accounts of each person receiving this notice a reasonable service charge not to exceed three dollars ($3).

CHAPTER 563

An act to amend Sections 1637, 1652, 1658, 1758.1, and 1759.3 of the Insurance Code, relating to insurance.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 1637 of the Insurance Code is amended to read:

1637. An organization may hold any license or licenses necessary to act in the following capacities under this chapter and no others:

(a) A license to act as an insurance agent.

(b) A license to act as an insurance broker.

(c) A license to act as a life and disability agent.

(d) A license to act as a life only agent.

(e) A license to act as a disability only agent.

(f) A license to act as a variable contract agent.

SEC. 2. Section 1652 of the Insurance Code is amended to read:

1652. A license under this chapter shall be applied for, and renewed by the filing with the commissioner of a written application

therefor. The application shall be on a form prescribed by the commissioner, which form shall prescribe the disclosure of such information as will aid the commissioner in determining whether the prerequisites for the license sought have been met. The applicant shall declare, under penalty of perjury, that the contents of the application are true and correct.

The forms prescribed by the commissioner other than for renewal applications may require authenticated fingerprints of any of the following:

(1) Individual applicants.

(2) Specified partners or officers of organization applicants.

(3) The individuals who are to transact insurance for an organization applicant.

The forms may require the fingerprints to be affixed to the application or to an attachment to be affixed to the application. The commissioner, in his or her discretion, may require the fingerprints on applications for any, some or all of the licenses issued pursuant to Chapters 5, 6, 7, or 8 of this part, provided that as to any one such type of license the requirement is applied without discrimination to all applicants within specified classifications. The classifications may be made upon any or all of the following bases:

(a) Length of continuous residence in this state.

(b) Whether or not previously or currently licensed by the commissioner.

(c) Whether or not currently licensed by specified regulatory agencies of the State of California which require fingerprints on applications for licenses and routinely process the fingerprints for positive identification.

(d) Other reasonable criteria.

The commissioner may decline to act on an incomplete or defective application until an amended application which completes the prescribed form is filed with him or her.

SEC. 3. Section 1658 of the Insurance Code is amended to read:

1658. Each application for an individual license shall contain the residence address, the principal business address, and the mailing address of the applicant. Each application for an organization license shall contain the principal business address and the mailing address of the applicant.

SEC. 3.5. Section 1758.1 of the Insurance Code is amended to read:

1758.1. For the purpose of making provision for the issuance of policies or contracts authorized by Article 5 (commencing with Section 10506) of Chapter 5 of Division 2, the commissioner may license as a variable contract agent a person or a natural person named on a license of an organization licensed as a life and disability agent or as a life only agent and which is appointed by an admitted insurer which is required to register itself or to register a separate account or fund with the United States Securities and Exchange Commission under the Federal Investment Company Act of 1940, or

to register its variable policies or contracts with the Securities and Exchange Commission under the Federal Securities Act of 1933, and has complied with such requirement.

No person shall act as an agent of the insurer in the transaction of the policies or contracts unless he or she holds a valid license under this article.

SEC. 4. Section 1759.3 of the Insurance Code is amended to read:

1759.3. (a) Every administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in Section 1759.1 and five years thereafter adequate books and records of all transactions between it, and insurers and insured persons. The books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The insurer shall retain the right to continuing access to the books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in the books and records.

(b) The commissioner shall have access to the books and records for the purpose of examination, audit, and inspection. Any information contained in the books and records, including, but not limited to, the identity and addresses of policyholders and certificateholders, shall be confidential, except the commissioner may use the information in any proceedings instituted against the administrator.

(c) The commissioner may, after notice and hearing, promulgate reasonable rules and regulations specifying the manner and type of records to be maintained by administrators.

(d) Every administrator shall keep and maintain the books and records required by this section and the regulations promulgated pursuant to this section. Failure to keep or maintain the books and records as required shall be grounds for the suspension or revocation of the certificate of registration of the administrator. The proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 564

An act to amend Sections 1063.1 and 1374 of, and to add Section 1374.1 to, the Insurance Code, relating to insurance.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 1063.1 of the Insurance Code is amended to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with the provisions of subdivision (a) of Section 1063, except and to the extent that the insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means a member insurer for which a domiciliary or ancillary liquidator has been appointed in this state after the effective date of this article.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (i) imposed by law and arising out of an insurance policy of the insolvent insurer; (ii) which were unpaid by the insolvent insurer; (iii) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (iv) which were incurred prior to, on, or within 30 days after the date the liquidator was appointed; (v) for which the assets of the insolvent insurer are insufficient to discharge in full; (vi) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the Workers' Compensation Law of this state and (vii) in the case of other classes of insurance if the policy is issued to a resident of this state or claim against an insured thereunder is made by a resident of this state.

(2) "Covered claims" shall not include any obligations arising from life, title, surety, disability, credit, mortgage, or mortgage guaranty insurance, nor arising from a policy of ocean marine insurance.

(3) "Covered claims" shall not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request or after the insurance policy has been canceled by the association as provided in this chapter, nor any obligations to any state or to the federal government.

(4) "Covered claims" shall not include any obligations to insurers, insurance pools, or underwriting associations, except as otherwise provided in this chapter.

(5) "Covered claims," except in the case of a claim for workers' compensation benefits, shall not include any claim in an amount of one hundred dollars ($100) or less, nor the first one hundred dollars ($100) of any claim in excess of one hundred dollars ($100), nor that portion of any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(6) "Covered claims" shall not include that portion of any claim,

other than a claim for workers' compensation benefits, which is in excess of five hundred thousand dollars ($500,000).

(7) "Covered claims" shall not include (a) any claim to the extent it is covered by any other insurance of a class covered by the provisions of this article available to the claimant or insured nor (b) any claim by any person other than the original claimant under the insurance policy in his or her own name, his or her executor, administrator, guardian or other personal representative or trustee in bankruptcy and shall not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(8) "Covered claims" shall not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to the provisions of Sections 11802 and 11803.

(9) "Covered claims" shall not include any obligations of the insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(10) "Covered claims" shall not include surplus deposits of subscribers as defined in Section 1374.1.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the California Department of Insurance.

SEC. 2. Section 1374 of the Insurance Code is amended to read:

1374. In estimating the financial condition of any exchange the commissioner shall observe the following rules:

(a) He or she shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(b) Surplus deposits of subscribers shall not be charged as a liability.

(c) All premium deposits and surplus deposits of subscribers due and unpaid for a period not exceeding 90 days shall be allowed as admitted assets, as in the case of incorporated insurers issuing nonassessable policies on a reserve basis.

(d) An assessment levied as provided in this chapter, and not collected shall in no event be allowed as an asset.

(e) The computation of reserves shall be based upon premium deposits without any deduction for the compensation of the attorney.

SEC. 3. Section 1374.1 is added to the Insurance Code, to read:

1374.1. (a) "Surplus deposits of subscribers," as used in this chapter, means amounts, over and above any premium charges, which are contributed by subscribers and which are used for the purpose of funding the surplus of a reciprocal or interinsurance exchange. No subscriber shall have a secured or preferred claim against any of the assets of the reciprocal or interinsurance exchange arising out of surplus deposits. All assets, including the surplus deposits, shall be held by the reciprocal or interinsurance exchange

and made available for payment of claims of policyholders and creditors of the reciprocal or interinsurance exchange in preference to any claim for withdrawal by a subscriber. A subscriber may, upon withdrawal from membership and cancellation of all such insurance contracts held by the subscriber with the insurer, withdraw the amount of the subscriber's surplus deposits, less such surrender charges as may be deducted pursuant to the subscriber's or insured's agreement, but only if the subscriber has given written notice to the attorney-in-fact at least 60 days in advance of the withdrawal.

(b) Withdrawal of surplus deposits of subscribers shall not be permitted if, as a result of the withdrawal, the policyholder's surplus of the exchange would be less than the capital and surplus required by Sections 700.01, 700.02, and 700.025.

(c) Withdrawal of surplus deposits of subcribers shall not be permitted after an order of conservation or liquidation of, or the appointment of a conservator or liquidator for, any such reciprocal or interinsurance exchange.

CHAPTER 565

An act to add Section 2906 to the Civil Code, relating to real property.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 2906 is added to the Civil Code, to read:

2906. An option granted to a secured party by a debtor to acquire an interest in real property collateral takes priority as of its recording and is effective according to its terms if the right to exercise the option is not dependent upon the occurrence of a default with respect to the security agreement and, where the real property which is the subject of the option is other than residential real property containing four or fewer units, shall not be deemed invalid or ineffective on the basis that the secured party has impaired the debtor's equity of redemption in violation of common law or Section 2889. This section shall not be construed to make valid or effective an otherwise unlawful option nor shall any inference be drawn from this section as to the validity or application of common law with respect to residential real property containing four or fewer units.

CHAPTER 566

An act to add Sections 19601 and 19602 to the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 19601 is added to the Business and Professions Code, to read:

19601. (a) Notwithstanding any other provision of law, the board may authorize any licensed association to accept wagers on races conducted in this state comprising the program of racing generally known as the Breeders Cup and feature races conducted in this state having a gross purse of fifty thousand dollars ($50,000) or more, if all of the following requirements are met:

(1) The association which conducts the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more and the horsemen's organization which represents the horsemen participating in that racing meeting consent to the acceptance of the wagers.

(2) Wagering is offered only within the association's racing inclosure and only within 36 hours of the commencement of the racing program with the Breeders Cup program or with the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

(3) The association which accepts the wagers is otherwise conducting a racing meeting at the time it accepts the wagers.

(4) All wagers made at the association which accepts the wagers are included in the appropriate conventional or exotic pool at the racetrack of the association which conducts the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more, unless the board determines that including the wagers in pools of the association which accepts the wagers better serves the purpose of this chapter.

(b) Any association accepting wagers under subdivision (a) shall deduct from the total amount handled in each conventional and exotic parimutuel pool, the same percentages deducted pursuant to Article 9.5 (commencing with Section 19610) by the association which conducts the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

(c) From the total amount deducted pursuant to subdivision (b), a commission of 2 percent of the amount it handles shall be retained by the association which accepts the wager. The funds remaining after distribution of the 2-percent commission shall be distributed in the same relative percentages (reduced pro rata for the 2-percent

commission) as provided in Article 9.5 (commencing with Section 19610), except that the funds available for distribution to the association which conducts the racing meeting with the Breeders Cup program or the feature race having a gross pool of fifty thousand dollars ($50,000) or more and for distribution to horsemen, in the form of purses, shall be accumulated and shall be distributed equally between (1) the association which conducts the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more and (2) the horsemen, in the form of purses, who participate in the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

(d) All breakage and unclaimed tickets shall be distributed equally among the state, the association which conducts the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more, and the horsemen, in the form of purses, who participate in the racing meeting with the Breeders Cup program or the feature race having a gross purse of fifty thousand dollars ($50,000) or more.

SEC. 2. Section 19602 is added to the Business and Professions Code, to read:

19602. (a) Notwithstanding any other provision of law, any racing association in this state may authorize betting systems located outside of this state to accept wagers on races comprising the Breeders Cup program or on any other race and may transmit live audio visual signals of the race or races and their results to these betting systems, except that any authorization is subject to applicable federal laws, including, but not limited to, Chapter 57 (commencing with Section 3001) of Title 15 of the United States Code.

(b) Any racing association described in subdivision (a), when it authorizes betting systems located outside of this state to accept wagers on races comprising the Breeders Cup program or any other single race from their racing program, or transmits live audio visual signals on races comprising the Breeders Cup program or any other single race from their racing program, shall pay a license fee to the state in an amount equal to 10 percent of the total amount received by the association from the out-of-state betting system. The remaining amount received by the association shall be distributed to the association which conducts the racing meeting with the Breeders Cup program or the single race and to horsemen participating in that racing meeting as follows: 50 percent to the association as commissions and 50 percent to the horsemen as purses.

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

In order that the provisions of this act may apply to the current racing season, it is necessary that this act take effect immediately.

CHAPTER 567

An act to add Section 1622.2 to the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 1622.2 is added to the Revenue and Taxation Code, to read:

1622.2. (a) Up to two members of a county board of supervisors who have served as a member of a county board of equalization pursuant to Section 1601 may serve on an assessment appeals board.

(b) Notwithstanding Sections 1623 and 1623.1, the term of office for any member of a county board of supervisors who serves on an assessment appeals board shall not exceed his or her term of office as a member of a county board of supervisors.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify existing law as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 568

An act to amend Section 1622.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 1622.1 of the Revenue and Taxation Code is amended to read:

1622.1. (a) As an alternative to the selection procedure provided in Section 1622, the county board of supervisors may, by ordinance, elect to appoint directly the members of the assessment appeals board. Approval of each member shall be by majority vote of the board of supervisors.

(b) An assessment appeals board appointed pursuant to this section may consist of three or five members. If a five-member board is appointed, the board shall only act as a three-member panel designated from time to time by the clerk of the assessment appeals

board. If a five-member board is appointed, the term of office of these members shall be three years except that upon the original selection of these members, the members shall be assigned terms in such a manner that the terms of no more than two offices shall expire in any one year.

CHAPTER 569

An act to amend Sections 11257 and 11450 of the Welfare and Institutions Code, relating to Aid to Families with Dependent Children.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 11257 of the Welfare and Institutions Code is amended to read:

11257. (a) No aid under this chapter shall be granted or paid for any child who has real or personal property, the combined market value reduced by any obligations or debts with respect to this property of which exceeds one thousand dollars ($1,000), or for any child or children in one family who have, or whose parents have, or the child or children and parents have, real and personal property the combined market value reduced by any obligations or debts with respect to this property which exceeds one thousand dollars ($1,000).

For purposes of this subdivision, real and personal property shall be considered both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make that sum available for support and maintenance.

(b) Notwithstanding subdivision (a) above, an applicant or recipient may retain the following:

(1) Personal or real property owned by him or her, or in combination with any other person, without reference to its value, if it serves to provide the applicant or recipient with a home. If the basic home is a unit in a multiple dwelling, then only that unit shall be exempt.

For the purposes of paragraph (1), if an applicant has entered into a marital separation for the purpose of trial or legal separation or dissolution, real property which was the usual home of the applicant shall be exempt for three months following the end of the month in which aid begins. If the recipient was receiving aid when the marital separation occurred, the period of exemption shall be three months following the end of the month in which the separation occurs. To remain exempt following this three-month period, the home must be occupied by the recipient, or be unavailable for use, control, and possession due to legal proceedings affecting a property settlement

or sale of the property.

(2) Personal property consisting of one automobile with maximum equity value as permitted by federal law.

(3) In addition to the foregoing, the director may at his or her discretion, and to the extent permitted by federal law, exempt other items of personal property not exempted under this section.

SEC. 2. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which includes one or more needy children, not to include unborn children, qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1	$ 258
2	424
3	526
4	625
5	713
6	802
7	880
8	959
9	1,036
10 or more	1,114

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother in the amount which would otherwise be paid to one person as specified in subdivision (a) from the date of verification of pregnancy if the mother, and child if born, would have qualified for aid under this chapter.

(c) The amount of seventy dollars ($70) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and

child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the women, infants and children program. If such payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which when added to the child's income is equal to the rate specified in Section 11461, 11462, 11462.1, 11462.5, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) (1) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(2) After a family has used all available liquid resources, both exempt and nonexempt, the family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family. These nonrecurring special needs shall only be granted for replacement of clothing and household equipment and for emergency housing needs. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs for a family shall not exceed six hundred dollars ($600) per event.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(4) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(f) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1

shall not constitute income to recipients of aid under this section.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the changes made by this act to:

(a) Paragraph (1) of subdivision (b) of Section 11257 of the Welfare and Institutions Code implement a federal law or regulation and involve only "costs mandated by the federal government," as defined by Section 2206 of the Revenue and Taxation Code.

(b) Paragraph (2) of subdivision (e) of Section 11450 of the Welfare and Institutions Code regarding emergency housing implement a court order and involve only "costs mandated by the courts," as defined in Section 2205 of the Revenue and Taxation Code.

(c) Paragraph (2) of subdivision (e) of Section 11450 of the Welfare and Institutions Code regarding the maximum special need allowance only codify existing state regulations and, therefore, these changes do not require a new program or increased level of service of an existing program, one of which is essential for a statute to result in "costs mandated by the state" as defined in Section 2207 of the Revenue and Taxation Code. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 570

An act to amend Sections 3543 and 5132 of the Public Utilities Code, relating to carriers.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 3543 of the Public Utilities Code is amended to read:

3543. No highway carrier shall operate any motor vehicle over any public highway unless there is displayed on the vehicle a distinctive identifying symbol in the form prescribed by the commission, showing the classification to which the carrier belongs.

No such identifying symbol shall be displayed on any vehicle until a permit under this chapter, or a certificate of public convenience and necessity under Part 1 (commencing with Section 201) of Division 1, has been issued to the carrier. The identifying symbols

displayed by highway carriers subject to the Interstate Commerce Commission Order Ex Parte No. MC-41, Identification of Motor Carrier Vehicles, November 17, 1954, effective January 3, 1955, shall serve in lieu of the display requirements of this section, if the identifying symbols have been recorded by the highway carrier with the commission.

For motor vehicles first registered in this state on or after January 1, 1985, the identifying symbol shall be displayed on both the left and right doors of the cab of the vehicle.

SEC. 2. Section 5132 of the Public Utilities Code is amended to read:

5132. Each household goods carrier shall display on each vehicle operated by it an identification symbol in the form and in accordance with rules and regulations which the commission may prescribe. The identifying symbols displayed by carriers subject to the Interstate Commerce Commission Order Ex Parte No. MC-41, Identification of Motor Carrier Vehicles, November 17, 1954, effective January 3, 1955, shall serve in lieu of the display requirements of this section, if the identifying symbols have been recorded by the household goods carrier with the commission.

For motor vehicles first registered in this state on or after January 1, 1985, the identifying symbol shall be displayed on both the left and right doors of the cab of the vehicle.

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

CHAPTER 571

An act to amend Sections 21108 and 21161 of the Public Resources Code, relating to environmental quality.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 21108 of the Public Resources Code is amended to read:

21108. (a) Whenever a state agency, board, or commission approves or determines to carry out a project which is subject to this division, it shall file notice of that approval or that determination with the Office of Planning and Research. The notice shall indicate

the determination of the agency, board, or commission whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division.

(b) Whenever a state agency, board, or commission determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172, and it approves or determines to carry out that project, it, or the person specified in subdivision (b) or (c) of Section 21065, may file notice of the determination with the Office of Planning and Research. Any notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the state agency, board, or commission responsible for making the determination that a project is not subject to the provisions of this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the state agency, board, or commission.

(c) All notices filed pursuant to this section shall be available for public inspection, and a list of these notices shall be posted on a weekly basis in the Office of Planning and Research. Each list shall remain posted for a period of 30 days.

SEC. 2. Section 21161 of the Public Resources Code is amended to read:

21161. Whenever a public agency has completed an environmental impact report, it shall cause a notice of completion of that report to be filed with the Office of Planning and Research. The notice of completion shall briefly identify the project and shall indicate that an environmental impact report has been prepared. Failure to file the notice required by this section shall not affect the validity of a project.

CHAPTER 572

An act to amend Sections 409, 472a, and 1167.3, of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 409 of the Code of Civil Procedure is amended to read:

409. (a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing

a cross-complaint, or at any time afterwards, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to notices of action pending in courts of this state. From the time of filing such notice for record only, a purchaser or encumbrancer of the property affected thereby shall be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) Except in actions brought under Title 7 (commencing with Section 1230.010) of Part 3, the person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be served upon the other party, by first-class mail, return receipt requested, mailed to all known addresses of the adverse parties and all owners of record as shown by the county assessor's office. A copy of the notice of the pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made immediately upon each adverse party who is later brought into the action pursuant to Section 472, 473, or 474.

(c) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (b) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (b) above, then as to that party a declaration under penalty of perjury to that effect shall be recorded instead of the proof of service described above and the service on that party shall not be required.

SEC. 2. Section 472a of the Code of Civil Procedure is amended to read:

472a. (a) A demurrer is not waived by an answer filed at the same time.

(b) Except as otherwise provided by rule adopted by the Judicial Council, when a demurrer to a complaint or to a cross-complaint is overruled and there is no answer filed, the court shall allow an answer to be filed upon such terms as may be just. If a demurrer to the answer is overruled, the action shall proceed as if no demurrer had been interposed, and the facts alleged in the answer shall be considered as denied to the extent mentioned in Section 431.20.

(c) When a demurrer is sustained, the court may grant leave to amend the pleading upon any terms as may be just and shall fix the time within which the amendment or amended pleading shall be filed.

(d) When a motion to strike is granted pursuant to Section 436, the court may order that an amendment or amended pleading be filed upon terms it deems proper. When a motion to strike a complaint or cross-complaint, or portion thereof, is denied, the court shall allow the party filing the motion to strike to file an answer.

SEC. 3. Section 1167.3 of the Code of Civil Procedure is amended to read:

1167.3. In any action under this chapter, unless otherwise ordered by the court for good cause shown, the time allowed the defendant to answer the complaint, answer the complaint, if amended, or amend the answer under subdivision (2), (3), (5), (6), or (7) of Section 586 shall not exceed five days.

CHAPTER 573

An act to amend Section 15908 of the Fish and Game Code, to add Section 34001 to the Public Resources Code, and to repeal Section 3 of Chapter 344 of the Statutes of 1981, relating to resources.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 15908 of the Fish and Game Code is amended to read:

15908. (a) The department shall, from time to time, require reports from a permittee operating pursuant to this chapter on the permittee's operations, and the department shall then make findings regarding the operations available to the commission.

(b) The department shall prepare and submit to the Joint Committee on Fisheries and Aquaculture and to the standing committee of each house of the Legislature that has jurisdiction over fishery issues a report, on or before July 1, 1985, including the data obtained from the permittee pursuant to subdivision (a), and its findings and recommendations.

SEC. 2. Section 34001 is added to the Public Resources Code, to read:

34001. The Department of Fish and Game may make grants to nonprofit organizations, political subdivisions of the state, and Indian tribes to cooperate with the department in salmon and steelhead rehabilitation along the north coast of California.

The Director of Fish and Game may establish criteria for the awarding of these grants to applicants who demonstrate the greatest expertise in accomplishing the salmon and steelhead rehabilitation projects.

SEC. 3. Section 3 of Chapter 344 of the Statutes of 1981 is repealed.

CHAPTER 574

An act to add Section 304.5 to the Health and Safety Code, relating to Reyes Syndrome.

[Approved by Governor July 17, 1984. Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Section 304.5 is added to the Health and Safety Code, to read:

304.5. (a) The Legislature finds and declares the following:

(1) The cause and the cure of Reyes Syndrome are unknown, and the number of incidences of this disease is also unknown.

(2) Where the scope of a medical problem is unknown, the amount of research funds is usually small. Therefore, it is necessary to define the extent of this medical problem.

(b) A physician and surgeon attending a patient diagnosed as having Reyes Syndrome shall report that condition, within seven days of the diagnosis, to the State Department of Health Services on report forms prescribed by the department.

CHAPTER 575

An act to add Chapter 5.5 (commencing with Section 9450) to Division 8.5 of the Welfare and Institutions Code, relating to financing of a program of senior centers through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 18, 1984.]

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

SECTION 1. Chapter 5.5 (commencing with Section 9450) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 5.5. SENIOR CENTER BOND ACT OF 1984

9450. This chapter shall be known and may be cited as the Senior Center Bond Act of 1984.

9451. For purposes of this chapter:

(a) "Fund" means the Senior Center Bond Act Fund of 1984.

(b) "Board" means the Department of Aging.

(c) "Senior center" means a community focal point on aging

where older persons as individuals or in groups come together for services and activities which enhance their dignity, support their independence, and encourage their involvement in and with the community. Senior center programs consist of a variety of services and activities in areas such as education, creative arts, recreation, advocacy, leadership development, employment, health, nutrition, social work, and other supportive services.

(d) "Multipurpose senior center" means a community facility with regular operating hours and staff that provides for a broad spectrum of health, social, nutritional, and educational services and recreational activities for older persons.

(e) "Acquiring" means obtaining ownership of an existing facility in fee simple or by lease for 10 years or more for use as a senior center.

(f) "Altering" or "renovating" means making modifications to an existing facility which are necessary for cost-effective use as a senior center, including restoration, repair, expansion, and all related physical improvements.

(g) "Constructing" means building a new facility, including the costs of land acquisition and architectural and engineering fees.

(h) "Equipment" means tangible personal property having a useful life of more than one year and an acquisition cost of three hundred dollars ($300) or more.

(i) "Program" means one of the service components provided for older persons in a senior center.

(j) "Startup costs" means a one-time capital outlay to fund programs in a newly constructed senior center, a one-time capital outlay to fund additional programs in an existing senior center, or initial service delivery costs.

(k) "Area agency" means the area agency on aging designated in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

(*l*) "Nonprofit" means an institution or organization which is owned and operated by one or more corporations or associations with no part of the net earnings benefiting any private shareholder or individual.

(m) "Planning and service area" means a geographic area that is designated for purposes of planning, development, delivery, and overall administration of services under an area plan.

(n) "Bond" means a state general obligation bond issued pursuant to this chapter adopting the provisions of the State General Obligation Bond Law.

(o) "Committee" means the Senior Center Finance Committee.

9452. There is hereby created in the State Treasury the Senior Center Bond Act Fund, which is comprised of moneys collected pursuant to the issuance and sale of bonds pursuant to this chapter. The Senior Center Bond Act Fund is hereby appropriated to the Controller, without regard to fiscal years, for allocation, upon the

request of the director and subsequent to statutory authorization pursuant to Section 9461.5, for the purposes specified in this chapter.

9453. The department shall, upon the enactment of statutory authorization pursuant to Section 9461.5, make awards from funds derived from this bond act to public or private nonprofit agencies for the purpose of acquiring, renovating, constructing, and purchasing of equipment for senior centers, or funding startup costs of programs, or program expansion of senior center programs.

9454. Eligible applicants for funding under this chapter include units of general purpose local government or other nonprofit private agencies or organizations, including the State of California or area agencies on aging.

9455. (a) A recipient of a contract for the acquisition of a facility to be used as a senior center shall assure that the facility will be used for that purpose for at least 10 years from the date of acquisition.

(b) A recipient of a contract for the renovation of an existing facility to be used as a senior center shall assure the department the facility will be used for that purpose for the following periods:

(1) Not less than three years from the date the contract terminates, where the amount of the award does not exceed thirty thousand dollars ($30,000).

(2) If the award exceeds thirty thousand dollars ($30,000), the fixed period of time shall increase one year for each additional ten thousand dollars ($10,000) or part thereof, to a maximum of seventy-five thousand dollars ($75,000).

(3) For awards which exceed seventy-five thousand dollars ($75,000), the fixed period of time shall not be less than 10 years.

(c) A recipient of a contract for the construction of a facility to be used as a senior center shall assure the department the facility will be used for that purpose for at least 20 years after completion of construction.

9456. (a) The State of California shall be entitled to recapture a portion of state funds from the owner of a facility, if within 10 years after acquisition or 20 years after completion of construction, either of the following occurs:

(1) The owner of the facility ceases to be a public or nonprofit agency.

(2) The facility is no longer used for senior center activities.

(b) The amount recovered shall be that proportion of the current value of the facility equal to the proportion of state funds contributed to the original cost. The current value of the facility shall be determined by an agreement between the owner of the facility and the State of California, or by an action in the court in the jurisdiction in which the facility is located.

9457. A facility altered, acquired, renovated, constructed, or equipped using funds allocated under this chapter to be used for a senior center facility may not be used and may not be intended to be used for sectarian instruction or as a place for religious worship.

9458. In a senior center facility that is shared with other age

groups, funds received under this chapter may support only the following:

(a) That part of the facility used by older persons.

(b) A proportionate share of the costs based on the extent of use of the facility by older persons.

9459. The department shall secure the advice of the Commission on Aging, area agencies on aging, the California Association of Nutrition Directors, California Park and Recreation Society, California Institute of Senior Centers, and other service providers on the request for proposal and the criteria for reviewing and evaluating the responses.

The department, with the commission, shall review and evaluate proposals for funding from each planning and service area. Each area agency shall issue a request for proposals within its planning and service area. The proposals shall be consistent with the criteria developed by the department in consultation with its advisory bodies.

9460. Proposals shall do all of the following:

(a) Document the need for a senior center or renovation, program addition, or expansion or equipment purchase.

(b) Contain a written commitment from service providers that services will be provided in the senior center.

(c) Contain a community match for funding equal to 15 percent of the total amount requested. The match may be in cash or in kind. Each area agency shall waive the community match upon verifying that the low-income or rural community made a substantial effort to secure a match but still was unable to secure the required match.

(d) Document the cost effectiveness of the proposal.

9461. Priority for funding shall be given to proposals for multipurpose senior centers which are open to all seniors.

Each area agency shall rank the proposals it submits to the department for funding. The area agency, together with its advisory council, in ranking the proposals shall consider the most feasible facilities to serve as senior centers and the most qualified local agencies to operate the programs in those centers in their jurisdictions. Approval from the area agency shall be obtained before any contract is awarded in its jurisdiction.

The department and each area agency shall also give priority consideration to fund proposals which are from rural or low-income and racial or ethnic minority areas of the state.

The department shall consider any protest or objection regarding the award of a contract, whether submitted before or after the award, provided that the protest is filed within the time period established in the request for proposals, made pursuant to Section 9459. All protests or objections shall be filed in writing. The protesting party shall be notified in writing of the final decision on the protest, and the notification shall set forth the rationale upon which the decision is based.

9461.5. Upon a determination by the department to provide

funding under a proposal submitted pursuant to this chapter, the department shall submit its recommendation to the Legislature and the Governor. Funding for that proposal shall be provided only pursuant to an appropriation enacted subsequent to receipt of the department's recommendation by the Legislature and the Governor.

9462. The allocation of funds from the fund shall be as follows:

Planning and Service area	Counties Served	Amount
1	Del Norte, Humboldt	$ 284,617
2	Lassen, Modoc, Shasta, Siskiyou, Trinity	1,060,317
3	Butte, Colusa, Glenn, Plumas, Tehama	658,942
4	Nevada, Placer, Sacramento, Sierra, Sutter, Yolo, Yuba	2,291,352
5	Marin	457,057
6	San Francisco	2,618,062
7	Contra Costa	1,392,620
8	San Mateo	1,241,138
9	Alameda	2,125,080
10	Santa Clara	1,824,900
11	San Joaquin	765,506
12	Alpine, Amador, Calaveras, Mariposa, Tuolumne	478,807
13	San Benito, Santa Cruz	498,298
14	Fresno, Madera	1,301,313
15	Kings, Tulare	618,639
16	Inyo, Mono	80,467
17	San Luis Obispo, Santa Barbara	1,025,795
18	Ventura	892,664
19	Los Angeles County	9,297,797
20	San Bernardino	1,674,458
21	Riverside	1,766,250
22	Orange	3,299,513
23	San Diego	3,872,269
24	Imperial	172,097
25	Los Angeles City	5,860,300
26	Lake, Mendocino	362,576
27	Sonoma	728,611
28	Napa, Solano	609,643
29	El Dorado	236,166
30	Stanislaus	622,739

31	Merced	259,070
32	Monterey	819,045
33	Kern	803,892

Funds not utilized by each planning and service area shall be reallocated to other planning and service areas with the highest documented need for a senior center.

9463. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued pursuant to this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter.

9464. For the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized in this chapter, the Senior Center Finance Committee is hereby created. The committee consists of the Treasurer, the Controller, the Director of Finance, and the Director of the Department of Aging.

The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of fifty million dollars ($50,000,000), in the manner provided in this chapter. The debt or debts, liability or liabilities shall be created for the purpose of acquiring, renovation, constructing, purchasing of equipment, funding startup costs of programs, or funding expansion of existing programs of senior centers.

When sold, the bonds authorized by this chapter shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the interest and principal on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

All money deposited in the fund which has been derived from premium and accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

All money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund, this money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which have been paid from the General Fund.

9465. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will

be equal to the following:

(a) That sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as principal and interest become due and payable.

(b) That sum as is necessary to carry out the provisions of Section 9464, which sum is appropriated without regard to fiscal years.

9466. For purposes of carrying out this chapter, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this chapter. These withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would have otherwise been earned by these sums in the Pooled Money Investment Fund.

The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this chapter at the time or times as may be fixed by the Treasurer.

All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 9452 but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as provided in this chapter.

SEC. 2. Section 1 of this act shall take effect upon the adoption by the voters of the Senior Center Bond Act of 1984, as set forth in Section 1 of this act.

SEC. 3. Notwithstanding Sections 3525 and 10218 of the Elections Code or any other provision of law, the Senior Center Bond Act of 1984, as set forth in Section 1 of this act, shall be submitted to the people of the State of California for their ratification at the next General Election, to be held November 6, 1984. Section 1 of this act shall in all other respects be submitted to the voters in accordance with provisions of the Government Code and Elections Code governing submission of statewide measures to the voters at a statewide election.

SEC. 4. Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "Senior Center Bond Act of 1984," and in the same square under those words, the following in eight-point type: "This act provides for a bond issue of fifty million dollars ($50,000,000) to provide funds for Senior Centers." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this

section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to be submitted to the voters at the November 6, 1984, General Election so that funding for senior centers may be procured at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 576

An act to amend Section 41379 of the Education Code, relating to schools.

[Approved by Governor July 17, 1984 Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 41379 of the Education Code is amended to read:

41379. The governing board of a school district may make application to the State Board of Education requesting a waiver of the provisions of Section 41378 whenever the provisions of that section would cause extreme hardship to the district. The board may grant the waiver whenever it has determined that the applications of the provisions of Section 41378 would unduly burden the district with expense, or would require a pupil to be exposed to hazards or require undue time in reaching the class which he or she is assigned to attend.

If the waiver is granted, no credit for attendance shall be granted for pupils in a kindergarten class that are in excess of 33, or for pupils in enrollment that make the average kindergarten classes in the district exceed 31 in enrollment, whichever is the larger.

CHAPTER 577

An act to amend Sections 25019, 25100, 25102, 25111, 25151, 25216, and 25234 of the Corporations Code, relating to corporations.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 25019 of the Corporations Code is amended to read:

25019. "Security" means any note; stock; treasury stock; membership in an incorporated or unincorporated association; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof); or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; any beneficial interest or other security issued in connection with a funded employees' pension, profit sharing, stock bonus, or similar benefit plan; or, in general, any interest or instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. All of the foregoing are securities whether or not evidenced by a written document. "Security" does not include: (1) any beneficial interest in any voluntary inter vivos trust which is not created for the purpose of carrying on any business or solely for the purpose of voting, or (2) any beneficial interest in any testamentary trust, or (3) any insurance or endowment policy or annuity contract under which an insurance company admitted in this state promises to pay a sum of money (whether or not based upon the investment performance of a segregated fund) either in a lump sum or periodically for life or some other specified period, or (4) any franchise subject to registration under the Franchise Investment Law, or exempted from such registration by Section 31100 or 31101 of that law.

SEC. 2. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains

diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the

net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when the commissioner finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service,

regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for a reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda,

agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

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

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

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to such offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations Code. The rights of all parties to this agreement are expressly conditioned upon such qualification being obtained, unless the sale is so exempt"; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of such securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100 or 25105.

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

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

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

(e) Any offer or sale of any evidence of indebtedness, whether

secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) which meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision; provided, however, that the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

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

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

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

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

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

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

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of such member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. Such notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in such form as the commissioner by rule prescribes, appointing the commissioner or his successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or

notice under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

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

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law

which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus or employee stock ownership plan provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer or any other lender.

SEC. 4. Section 25111 of the Corporations Code is amended to read:

25111. (a) Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be qualified by coordination under this section either in an issuer or nonissuer transaction.

(b) Except as provided in subdivision (d), an application for qualification under this section shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (1) a copy of the registration statement under the Securities Act of 1933, together with all exhibits (other than exhibits incorporated by reference and those specified by rule of the commissioner, unless requested by the commissioner); (2) an undertaking to forward to the commissioner all future amendments to the registration statement under the Securities Act of 1933, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs; and (3) such other information as may be required to evidence compliance with any rules of the commissioner. Such application must be filed with the commissioner not later than the fifth business day following filing of the registration statement with the Securities and Exchange Commission, unless such time is extended by rule or order of the commissioner.

(c) Except as provided in subdivision (d), qualification of the sale of securities under this section automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application as amended) at the moment the federal registration statement becomes effective if all the following

conditions are satisfied: (1) no stop order or order under subdivision (a) of Section 25143 is in effect under this law; (2) the application has been on file with the commissioner for at least 10 days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two business days or such shorter period as the commissioner permits by rule or order and the offering is made within those limitations. The applicant shall promptly notify the commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a posteffective amendment to the application containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, interest, dividend or conversion rates, call prices and other matters related to the offering price. Upon failure to receive the required notification and posteffective amendment with respect to the price amendment, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the application for qualification or suspending its effectiveness until compliance with this subdivision, if he promptly notifies the applicant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the applicant proves compliance with the requirements of this subdivision as to notice and posteffective amendment, the stop order is void as of the time of its entry. The commissioner may by rule or order waive either or both of the conditions specified in clauses (2) and (3) of this subdivision. If the federal registration statement becomes effective before all the conditions in this subdivision are satisfied and they are not waived, the application for qualification automatically becomes effective as soon as all the conditions are satisfied. If the applicant advises the commissioner of the date when the federal registration statement is expected to become effective, the commissioner shall promptly advise the applicant by telephone or telegram, at the applicant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under Section 25140 or 25143; but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

(d) (1) An open-end investment company or a unit investment trust which has previously qualified the sale of its securities pursuant to this section shall, in lieu of filing the application specified in subdivision (b), file pursuant to this subdivision if it has made no material change in its offering and if it is in compliance with all terms of its prior qualification. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of

process required by Section 25165: (A) a statement that the applicant has made no material change in its offering and that it is in compliance with the terms of its qualification; and (B) a copy of its current registration statement under the Securities Act of 1933.

If no stop order or orders under subdivision (a) of Section 25143 are in effect under this law, qualification of the sale of securities under this subdivision automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application) upon the day following the expiration of its prior qualification pursuant to this section or, if such qualification has expired, upon the first business day following the filing of the application pursuant to this subdivision. Nothing contained in this subdivision shall restrict the authority of the commissioner pursuant to Section 25140 or 25143.

(2) A unit investment trust which has not previously applied to qualify the sale of its securities pursuant to this section but which is substantially the same as one or more unit investment trusts previously qualified under this section by the same sponsor, shall file pursuant to this subdivision if it can make the statements specified below. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (A) a statement that the applicant, in its organization, its plan of business, its securities and its offering, is substantially the same as a unit investment trust previously qualified under this section by the same sponsor; (B) a statement that such previously qualified unit investment trusts are in compliance with the terms of their qualifications and (C) a copy of its current registration statement under the Securities Act of 1933. If no stop order or orders under subdivision (a) of Section 25143 are in effect under this law, qualification of the sale of securities under this subdivision automatically becomes effective (and the security may be offered and sold in accordance with the terms of the application) at the moment the federal registration becomes effective or, if the registration is effective when the application is filed, upon the first business day following the filing of the application pursuant to this subdivision.

SEC. 5. Section 25151 of the Corporations Code is amended to read:

25151. (a) Upon the filing of a written request for the consent to transfer securities referred to in Section 25133, accompanied by such information and documents as the commissioner may by rule require, the commissioner shall issue such consent if the commissioner finds that the transfer requested will be fair, just, and equitable to the proposed transferees, and otherwise the commissioner shall deny such consent.

(b) The issuance of the commissioner's consent pursuant to this section shall not be a qualification of the transaction pursuant to, nor

an exemption from the qualification requirements of, Section 25110, 25120, or 25130.

SEC. 6. Section 25216 of the Corporations Code is amended to read:

25216. (a) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance. The commissioner shall, for the purposes of this subdivision, by rule define such schemes, devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

(b) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in connection with which such broker-dealer or agent engages in any fraudulent, deceptive or manipulative act or practice or makes any fictitious quotation. The commissioner shall, for the purposes of this subdivision, by rule define and prescribe means reasonably designed to prevent such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious.

(c) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility of broker-dealers. Such rules may require a minimum capital for broker-dealers or prescribe a ratio between net capital and aggregate indebtedness or both and a fidelity bond.

(d) No broker-dealer or agent shall effect or attempt to effect in this state, in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, (1) any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege (A) of buying or selling the security, (B) on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the market value thereof), (C) entered into on a national securities exchange relating to foreign currency, or (2) any transaction in connection with any security with relation to which the broker-dealer or agent has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege, or (3) any transaction in any security for the account of any person who the broker-dealer or agent has reason to believe has, and who actually has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege with relation to such security.

(e) The commissioner may by rule require any issuer who employs agents in connection with any security or transaction not exempted by Chapter 1 (commencing with Section 25100) of Part 2 of this division to post a surety bond in an amount not exceeding ten

thousand dollars ($10,000), conditioned that the issuer will comply with the provisions of this law and the rules and orders issued thereunder. The bond, unless previously canceled, shall cover for the entire period that the qualification is in effect. If a deposit in lieu of a bond is made pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure, the deposit may include an appropriate deposit of securities. No suit may be maintained to enforce any liability on the bond unless brought within two years after the contract of sale or other act upon which the suit is based.

SEC. 7. Section 25234 of the Corporations Code is amended to read:

25234. (a) No investment adviser shall in this state enter into, extend or renew any investment advisory contract, or in any way perform any investment advisory contract entered into, extended or renewed on or after the effective date of this law, if such contract:

(1) Provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client, except as may be permitted by rule or order of the commissioner;

(2) Fails to provide, in substance, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract;

(3) Fails to provide, in substance, that the investment adviser, if a partnership, will notify the other party to the contract of any change in the membership of such partnership within a reasonable time after such change.

(b) As used in this section, "investment advisory contract" means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account for a person other than an investment company. Clause (1) of subdivision (a) of this section does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates, or taken as of a definite date.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 578

An act to add Sections 5028 and 9574 to the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 5028 is added to the Food and Agricultural Code, to read:

5028. (a) Any person who negligently or intentionally violates any state or federal law or regulation, including any quarantine regulation, by importing any plant, or other article, which by virtue of being pest or disease infested, causes an infestation of a plant, pest, or disease or causes an existing infestation to spread beyond any quarantine boundaries is liable civilly in a sum not to exceed twenty-five thousand dollars ($25,000) for each act that constitutes a violation of the law or regulation.

(b) The Attorney General, upon request of the director, shall petition the superior court to impose, assess, and recover the sum imposed pursuant to subdivision (a). In determining the amount to be imposed, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation and the nature and persistence of the violation.

(c) The remedy under this section is in addition to, and does not supersede or limit, any and all other remedies, civil or criminal, that are otherwise available to the state.

(d) Any funds recovered pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for emergency pest or disease exclusion, detection, eradication, or research of agricultural plant or animal pests or diseases. These funds may be allocated to cover costs related to the enforcement of this division. These funds are in addition to any funds appropriated for those purposes pursuant to Section 224.

SEC. 2. Section 9574 is added to the Food and Agricultural Code, to read:

9574. (a) Any person who negligently or intentionally violates any state or federal law or regulation, including any quarantine regulation, by importing any animal or other article, which by virtue of being pest infested or disease infected, causes an infestation or infection of a pest, animal, or disease, or causes an existing infestation to spread beyond any quarantine boundaries is liable civilly in a sum not to exceed twenty-five thousand dollars ($25,000) for each act that constitutes a violation of the law or regulation.

(b) The Attorney General, upon request of the director, shall

petition the superior court to impose, assess, and recover the sum imposed pursuant to subdivision (a). In determining the amount to be imposed, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation and the nature and persistence of the violation.

(c) The remedy under this section is in addition to, and does not supersede or limit, any and all other remedies, civil or criminal, that are otherwise available to the state.

(d) Any funds recovered pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for emergency pest or disease exclusion, detection, eradication, and research of agricultural plant or animal pests or diseases. These funds may be allocated to cover costs related to the enforcement of this division. These funds are in addition to any funds appropriated for those purposes pursuant to Section 224.

(e) This section does not apply to any person who moves his or her livestock on foot from one pasture to another, and crosses the border of this state in that movement.

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

The 1984 Summer Olympic games will bring many visitors to California and thus increase the likelihood of the introduction of pest infestations into this state. In order to enable the state to utilize the funding mechanism created by this act in time to help in pest eradication efforts made necessary by these infestations, it is necessary that this act take effect immediately.

CHAPTER 579

An act to amend Sections 15928, 15929, 15930, 15957, 29530, 29532, 29532.4, and 29534 of the Government Code, to amend Sections 21682.5, 99233.2, 99236, 99241, 99243, 99248, 99261, 99270.1, 99281, 99288, 99311, 99311.5, 99312, 99312.7, 99313, 99314, 99315.5, 99319, and 99373 of, to add Sections 99205.6 and 99241.5 to, and to repeal Section 99212 of, the Public Utilities Code, to amend Sections 7204.4 and 8352.5 of the Revenue and Taxation Code, to amend Sections 183.5, 2172, 2173, 2174, 2175, 2176, 2176.5, 2177, and 30150.5 of the Streets and Highways Code, and to amend Section 22356 of the Vehicle Code, relating to transportation.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 15928 of the Government Code is amended to read:

15928. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this part.

(a) "County transportation commission" means a commission created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code.

(b) "Department" means the Department of Transportation.

(c) "Fund" means the Ridesharing and Alternative Transportation Fund.

(d) "Ridesharing" means travel by any mode other than the single-occupant motor vehicle, including, but not limited to, carpooling, vanpooling, public or private buspooling, subscription taxipool, and public transit, either in mixed-flow traffic or on exclusive high-occupancy vehicle facilities.

(e) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of the driver.

(f) "Ridesharing assistance services" means services provided to public or private employers and individual citizens which facilitate formation of ridesharing arrangements or other modes of travel other than the single-occupant motor vehicle. The assistance may be provided by state or local governmental entities or private third-party entities. Ridesharing assistance services include, but are not limited to, dial-in matching assistance, employer matching assistance, outreach efforts, and coordination of efforts with other public and private entities.

SEC. 2. Section 15929 of the Government Code is amended to read:

15929. The Ridesharing and Alternative Transportation Fund is hereby created in the State Treasury and the money therein is continuously appropriated to the department for purposes of this part.

SEC. 3. Section 15930 of the Government Code is amended to read:

15930. The funds appropriated pursuant to Section 15929 shall be allocated by the Director of Transportation as follows:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund and for its statewide ridesharing planning responsibilities. The allocation under this subdivision shall not exceed 1 percent of the total funds appropriated for the purposes of this part.

(b) To each transportation planning agency and each county transportation commission for the planning and implementation of ridesharing programs, an amount determined on the basis of the following two equally weighted factors:

(1) The population of the area under the jurisdiction of the entity

to the total state population.

(2) The population of the urbanized areas under the jurisdiction of the entity to the total state population in urbanized areas.

The allocation for purposes of this subdivision shall not be less than 85 percent of the total funds appropriated for the purposes of this part.

(c) Funds not allocated under subdivision (a) or (b) shall be allocated to the department for the planning and implementation of ridesharing programs.

The director shall allocate any moneys appropriated for the Ridesharing and Alternative Transportation Fund, which are not transferred pursuant to subdivisions (a), (b), and (d) of Section 5 of the act that added this section to the Government Code, only with the approval of the California Transportation Commission.

To the maximum extent possible, funds allocated pursuant to subdivision (b) of this section shall be used for implementing ridesharing programs rather than planning and related functions.

SEC. 4. Section 15957 of the Government Code is amended to read:

15957. "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

On and after January 1, 1985, any duty, power, purpose, responsibility, or jurisdiction which is vested by this part in the secretary is hereby transferred to the Director of Transportation. Whenever any reference is made in this part to the secretary, it shall be deemed to be a reference to, and to mean, the Director of Transportation.

SEC. 5. Section 29530 of the Government Code is amended to read:

29530. If the board of supervisors so agrees by contract with the State Board of Equalization, the board of supervisors shall establish a local transportation fund in the county treasury and shall deposit in the fund all revenues transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, which are derived from that portion of the taxes imposed by the county at a rate in excess of 1 percent pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of that code, less an allocation of the cost of the services of the State Board of Equalization in administering the sales and use tax ordinance related to the rate in excess of 1 percent and of the Director of Transportation in administering the responsibilities assigned to him or her in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

Any interest or other income earned by investment or otherwise of the local transportation fund shall accrue to and be a part of the fund.

SEC. 6. Section 29532 of the Government Code is amended to read:

29532. Out of the funds appropriated pursuant to Section 29531,

the county auditor shall pay to public transportation entities the amounts allocated by the transportation planning agencies designated by the Director of Transportation as follows:

(a) For a county included within the jurisdiction of a statutorily created regional transportation planning agency, that agency.

(b) For a county which is not included within the jurisdiction of a statutorily created regional transportation planning agency but for which there is a council of governments, and an election has not been made pursuant to Section 29536, that council. For a county which is not included within the jurisdiction of a statutorily created regional transportation planning agency but for which there is a council of governments for which an election has been made under Section 29536 to form a local transportation commission, the local transportation commission authorized in Section 29535.

(c) For a county not within the jurisdiction of a statutorily created regional transportation planning agency or a council of governments, the local transportation commission authorized in Section 29535.

SEC. 7. Section 29532.4 of the Government Code is amended to read:

29532.4. Notwithstanding subdivision (a) of Section 29532, the county transportation commission created in the Counties of Los Angeles, Orange, Riverside, and San Bernardino by Division 12 (commencing with Section 130000) of the Public Utilities Code shall not be designated by the Director of Transportation as the transportation planning agency for the area under its jurisdiction.

SEC. 8. Section 29534 of the Government Code is amended to read:

29534. The county auditor shall keep records and make reports concerning the local transportation fund as the Director of Transportation shall prescribe.

SEC. 9. Section 21682.5 of the Public Utilities Code is amended to read:

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Development Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Director of Transportation.

SEC. 10. Section 99205.6 is added to the Public Utilities Code, to read:

99205.6. "Director" means the Director of Transportation.

SEC. 11. Section 99212 of the Public Utilities Code is repealed.

SEC. 12. Section 99233.2 of the Public Utilities Code is amended to read:

99233.2. (a) Except as provided in subdivision (b), there shall be allocated to the transportation planning agency, if it is statutorily created, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and

programming process, unless a greater amount is approved by the director.

(b) In those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commission in Los Angeles County and up to 2 percent of the annual revenues shall be allocated to the commissions in Orange, Riverside, and San Bernardino Counties for the transportation planning and programming process. In addition, up to three-fourths of 1 percent of annual revenues, but not more than one million dollars ($1,000,000) per year, shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency carrying out its responsibilities under Division 12 (commencing with Section 130000).

SEC. 13. Section 99236 of the Public Utilities Code is amended to read:

99236. No funds from the fund shall be budgeted, allocated, or expended for any project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation, unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the director who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 14. Section 99241 of the Public Utilities Code is amended to read:

99241. Except for allocations made for purposes of Section 99234 and subdivision (a) of Section 99400, which shall be subject to the rules and regulations adopted by the transportation planning agency, all matters necessary and convenient to the implementation of this chapter shall be subject to rules and regulations, consistent with statute, adopted by the department, with the advice and consent of the commission, and those rules and regulations may be revised from time to time.

The rules and regulations shall specify the procedures by which evaluation and review by the transportation planning agency of public transportation claims shall be accomplished, and shall require submission of corresponding budgets or financial plans, certified financial statements, and other information required in connection therewith. The rules and regulations shall provide for the orderly and periodic distribution of moneys in the fund so that the areas served by the operator will be provided public transportation services on a continuing basis and so that there will be an orderly improvement

and maintenance of the system of the operator. The rules and regulations shall provide for the approval of sufficient moneys from the local fund to accomplish the intent of the Legislature as expressed in the findings and declarations in Section 99220.

The rules and regulations may require that the transportation planning agency, in reviewing claims, give due consideration to the level of the operator's passenger fares and charges, the efficiency of the operator's operations and operating policies and practices, the extent to which the operator is meeting the transportation needs of the area served, and the extent to which the operator is making full use of other available revenues and funds, including federal transportation grants.

Rules and regulations adopted by the department with respect to reporting and auditing procedures shall apply to all expenditures of funds allocated pursuant to this chapter.

SEC. 15. Section 99241.5 is added to the Public Utilities Code, to read:

99241.5. All rules and regulations adopted by the Secretary of the Business, Transportation and Housing Agency pursuant to Section 99241, as it read prior to its amendment by the act adding this section, and in effect on January 1, 1985, shall remain in effect and shall be fully enforceable unless and until amended or repealed by the department.

SEC. 17. Section 99243 of the Public Utilities Code is amended to read:

99243. (a) The Controller, in cooperation with the department and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them and to the Controller within 90 days of the end of the fiscal year. The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year and (2) the data necessary to determine which section, with respect to Sections 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, the operator is required to be in compliance with in order to be eligible for funds under this article.

(b) As a supplement to the annual report prepared pursuant to subdivision (a), each operator shall include an estimate of the amount of revenues to be generated from each source and its proposed application for the next fiscal year.

(c) The Controller shall instruct the county auditor to withhold payments from the fund to any operator which has not submitted its annual report to the Controller within the time specified by subdivision (a).

(d) In establishing the uniform system of accounts and records, the Controller shall include the data required by the United States Department of Transportation and the department.

SEC. 18. Section 99248 of the Public Utilities Code is amended to read:

99248. No operator is eligible to receive an allocation under this chapter for any fiscal year until the transmittal of reports of its performance audit to the entity which determines the allocation to the operator, the transportation planning agency, and the director for the three-year period ending one year prior to the beginning of the fiscal year of the proposed allocation. The director shall compile the reports and make them available to interested parties.

SEC. 19. Section 99261 of the Public Utilities Code is amended to read:

99261. The transportation planning agency may adopt rules and regulations supplemental to, and consistent with, those of the department to further delineate procedures for the submission of claims and stating criteria by which they will be analyzed and evaluated.

The criteria may include a statement of intent to disallow any portion of an operator's claim which calls for moneys to finance unreasonable or arbitrary increases in executive level salaries based on consideration of executive level salaries in other public agencies and in the public transportation industry, both nationally and within the state.

To the extent necessary to perform its duties under this article, the transportation planning agency has full access to the books, records, and accounts of claimant operators.

SEC. 20. Section 99270.1 of the Public Utilities Code is amended to read:

99270.1. If an operator serves urbanized and nonurbanized areas in the area of jurisdiction of a transportation planning agency, the transportation planning agency shall adopt rules and regulations to determine what portion of the public transportation services of the operator serves urbanized areas and what portion serves nonurbanized areas to determine its required ratio of fare revenues to operating cost, as defined by subdivision (a) of Section 99247, or its required ratio of the sum of fare revenues and local support to operating cost, or both.

The transportation planning agency shall submit the rules and regulations to the department for approval.

SEC. 21. Section 99281 of the Public Utilities Code is amended to read:

99281. The transit district may operate or establish new routes or extend existing routes in all or part of the area outside a municipal operator, except where the operation or establishment of that service will compete with or divert patronage from an existing service of any included municipal operator or service in a reserved service area under Section 99280. However, this limitation upon the district does not apply with respect to services established outside a reserved service area by an included municipal operator under Section 99280.

Unless both the department and the statutorily created regional transportation planning agency designate otherwise, the transit

district has the sole prerogative of using funds available under this chapter for the purpose of constructing and operating a grade-separated mass transit system, regardless of whether the operation of the system competes with or diverts patronage from any services of an included municipal operator.

SEC. 22. Section 99288 of the Public Utilities Code is amended to read:

99288. (a) Any city, county, or transit district may enter into a contract with any operator, except with an included municipal operator unless specifically approved by the governing body of the transit district in whose area the included municipal operator is located, for the operator to provide public transportation service in the city, county, or transit district. In that case, the operator providing the service may include the claim of the city, county, or transit district, as the case may be, with its claim. The claim may include an amount for reimbursement of the actual costs incurred by the city, county, or transit district for the administration, review, and monitoring of the contract. The amount so claimed shall not exceed 5 percent of the total amount of the contract for public transportation service in the city, county, or transit district.

(b) With the prior express authorization of the department, a transit district may include in its claim a proportional amount for regularly scheduled services outside its boundaries even though the contract specified in subdivision (a) has not been executed.

SEC. 23. Section 99311 of the Public Utilities Code is amended to read:

99311. Upon appropriation by the Legislature, funds transferred, or scheduled as a reimbursement, to the account, pursuant to Section 21682.5 of this code and Section 194 of the Streets and Highways Code, shall be available for allocation by the director for the following purposes:

(a) State transportation planning.

(b) Regional transportation planning by transportation planning agencies designated pursuant to Section 29532 of the Government Code.

SEC. 24. Section 99311.5 of the Public Utilities Code is amended to read:

99311.5. The amount allocated to a transportation planning agency designated pursuant to Section 29532 of the Government Code, for the preparation or updating of a regional transportation plan pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of that code, may be up to 70 percent of its nonfederally reimbursed costs for regional transportation planning.

For a transportation planning agency in a county with a population of less than 500,000 persons, the director may increase that percentage, if the director determines it to be in the best interests of regional and state transportation planning to do so.

SEC. 25. Section 99312 of the Public Utilities Code is amended to read:

99312. The funds transferred to the account pursuant to paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code shall be appropriated by the Legislature, as follows:

(a) To the director, 42 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

(b) To the director, 18 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(c) The remaining amount for public transportation purposes pursuant to Section 99315.

SEC. 26. Section 99312.7 of the Public Utilities Code is amended to read:

99312.7. Not later than each January 10th, the director shall send to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, an estimate of the amount of funds to be allocated to it during the next fiscal year pursuant to Sections 99313 and 99314.

Not later than each August 1st, on the basis of the amount appropriated in the Budget Act for purposes of Sections 99313 and 99314, the director shall send to each of the entities an estimate of the amount of funds to be allocated to it during the fiscal year.

SEC. 27. Section 99313 of the Public Utilities Code is amended to read:

99313. From the funds made available pursuant to subdivision (a) of Section 99312, an amount shall be allocated by the director to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, based on the ratio of the population of the area under its jurisdiction to the total population of the state.

SEC. 28. Section 99314 of the Public Utilities Code is amended to read:

99314. (a) From funds made available pursuant to subdivision (b) of Section 99312, an amount shall be allocated by the director to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, based on the ratio of the total revenue of all the operators in the area under its jurisdiction during the prior fiscal year to the total revenue of all the operators in the state during the prior fiscal year.

(b) For purposes of this section and Section 99314.3, "revenue" means fare revenues and any other funds used by the operator for its transit operation, except federal and state funds which may only be used for transportation purposes and funds allocated pursuant to Section 99233. The revenue amount for each operator shall be determined from the annual report submitted to the Legislature by the Controller pursuant to Section 99243.5.

SEC. 29. Section 99315.5 of the Public Utilities Code is amended

to read:

99315.5. From the funds made available pursuant to subdivision (a) of Section 99315, an amount shall be appropriated for each of the following purposes:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund, its mass transportation responsibilities, and its assistance in regional transportation planning.

(b) To the director for allocation to the Institute of Transportation Studies of the University of California for training and research in public transportation systems engineering and management and coordination with other transportation modes.

(c) To the commission for its activities not payable from the State Highway Account.

(d) To the Public Utilities Commission for its passenger rail responsibilities specified in statute.

SEC. 30. Section 99319 of the Public Utilities Code is amended to read:

99319. (a) Each transportation planning agency and each county transportation commission, and the San Diego Metropolitan Transit Development Board, shall create a unified transportation fund to deposit the funds allocated to it pursuant to paragraph (3) of subdivision (a) of Section 7102 of the Revenue and Taxation Code. The funds shall be reallocated to operators and to counties and cities for street and highway and public transportation purposes. Funds allocated under this section for public transportation purposes are subject to the requirements of this chapter applicable to local transportation funds.

(b) Upon appropriation by the Legislature of the funds transferred to the account pursuant to paragraph (3) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, the director shall allocate, based on the ratio of the population of the area to the total state population, the funds to each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, for reallocation for public transportation purposes and streets and highway purposes.

SEC. 31. Section 99373 of the Public Utilities Code is amended to read:

99373. Proceedings are initiated to issue bonds within the meaning of this article when the board of supervisors, by majority vote, adopts a resolution in conformity with the notification from the director.

SEC. 33. Section 7204.4 of the Revenue and Taxation Code is amended to read:

7204.4. The Director of Transportation and the Controller shall charge for the cost of their services in administering the responsibilities assigned to them in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. Amounts to be charged shall be specified in the Budget Act. Those

amounts shall be deducted from the taxes collected by the board for the counties and the cities and counties.

SEC. 34. Section 8352.5 of the Revenue and Taxation Code is amended to read:

8352.5. Subject to Sections 8352 and 8352.1, there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Department of Food and Agriculture Fund, during the second quarter of each fiscal year, an amount equal to the estimate contained in the most recent report prepared pursuant to this section.

The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June 30th following the calendar year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

On or before September 30th of each odd-numbered year, the Director of Transportation and the Director of Food and Agriculture shall jointly prepare, or cause to be prepared, a report setting forth the current estimate of the amount of money in the Motor Vehicle Fuel Account attributable to agricultural off-highway use of motor vehicle fuel, which is subject to refund pursuant to Section 8101 less gross refunds allowed by the Controller to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101; and they shall submit a copy of the report to the Legislature.

SEC. 35. Section 183.5 of the Streets and Highways Code is amended to read:

183.5. No funds from the State Highway Account shall be budgeted, allocated, or expended for any project which calls for any change in passenger train stations or loading platforms used by the National Railroad Passenger Corporation unless the change has been submitted to the National Railroad Passenger Corporation for review and comment which may include a recommendation for a modification in the change. If the agency submitting the change elects not to accept the recommendation of the National Railroad Passenger Corporation, it shall submit the matter to the director who shall determine whether the disputed recommendation for a modification in the change shall be followed by the agency.

SEC. 36. Section 2172 of the Streets and Highways Code is amended to read:

2172. The department shall be responsible for the administration, implementation, marketing, and evaluation of the projects. The department shall seek the assistance of an advisory group for each corridor.

The director shall appoint the advisory groups, which shall include

representatives from user groups, consumer groups, the various public and private transit operators serving the area in which the corridor is located, the transportation planning agencies having jurisdiction of the areas within the corridor, the Public Utilities Commission, and other public and private entities affected by projects in the corridor.

SEC. 37. Section 2173 of the Streets and Highways Code is amended to read:

2173. From funds appropriated for such purposes, the department shall enter into an agreement with the National Railroad Passenger Corporation, pursuant to Section 403(b) of the National Railroad Passenger Service Act of 1970 (45 U.S.C. Sec. 563(b)), for improvement of railroad track and passenger facilities along the Sacramento-Oakland and Los Angeles-San Diego corridors.

First priority shall be given to those improvements which the department determines make possible time savings, such as those identified in the report prepared pursuant to Chapter 1427 of the Statutes of 1974.

SEC. 38. Section 2174 of the Streets and Highways Code is amended to read:

2174. From funds appropriated for such purposes, the department shall enter into an agreement with the National Railroad Passenger Corporation, pursuant to Section 403(b) of the National Railroad Passenger Service Act of 1970 (45 U.S.C. Sec. 563(b)), for additional passenger rail service along the Sacramento-San Francisco and Los Angeles-San Diego corridors.

SEC. 39. Section 2175 of the Streets and Highways Code is amended to read:

2175. From funds appropriated for such purposes, the department may undertake a program to provide feeder bus service between major population or activity centers and the nearest rail terminal served under Section 2174. The service shall be provided by operators, as defined in Section 99210 of the Public Utilities Code, or by passenger stage corporations, as defined in Section 226 of the Public Utilities Code.

SEC. 40. Section 2176 of the Streets and Highways Code is amended to read:

2176. From funds appropriated for such purposes, the department may undertake a program to provide express bus service between Stockton and a station of the San Francisco Bay Area Rapid Transit District selected by the department and the district or between Stockton and Sacramento. The service shall be provided by operators, as defined in Section 99210 of the Public Utilities Code, or by passenger stage corporations, as defined in Section 226 of the Public Utilities Code.

SEC. 41. Section 2176.5 of the Streets and Highways Code is amended to read:

2176.5. From funds appropriated for such purposes, the department may undertake the construction of intermodal transfer

facilities located in conjunction with other rail and bus facilities in communities between Stockton and communities in the San Francisco Bay area or between Stockton and Sacramento.

SEC. 42. Section 2177 of the Streets and Highways Code is amended to read:

2177. From funds appropriated by Section 4 of Chapter 1130 of the Statutes of 1975, the director shall make allocations to extend corridor rail services beyond the terminals identified in Section 2171 to population and activity centers which the director determines would give the greatest increase in patronage, relative to cost.

SEC. 43. Section 30150.5 of the Streets and Highways Code is amended to read:

30150.5. The department, at the time it submits any request, or develops and submits any program, to the California Transportation Commission for capital expenditure or improvement on any toll bridge under the jurisdiction of the California Transportation Commission and located within the region under the jurisdiction of the Metropolitan Transportation Commission, shall transmit a copy of the request or program, as the case may be, to the Metropolitan Transportation Commission, which shall review the request or program and transmit its findings and recommendations thereon to the department and the California Transportation Commission for consideration.

SEC. 44. Section 22356 of the Vehicle Code is amended to read:

22356. Whenever the Department of Transportation, after consultation with the Department of the California Highway Patrol, determines upon the basis of an engineering and traffic survey on existing freeway segments, or upon the basis of appropriate design standards and projected traffic volumes in the case of newly constructed freeway segments, that a speed greater than 65 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any state highway, or portion thereof, which is a freeway with full control of access and without crossings at grade otherwise subject to a maximum speed limit of 65 miles per hour, the Department of Transportation, with the approval of the Department of the California Highway Patrol, may declare a higher maximum speed of 70 miles per hour, and shall cause appropriate signs to be erected giving notice thereof.

No person shall drive a vehicle upon that highway at a speed greater than 70 miles per hour.

CHAPTER 580

An act relating to mobilehome parks, and making an appropriation therefor.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. (a) The Department of Housing and Community Development shall conduct a statistical survey of mobilehome parks in California, which shall include, but not be limited to, the following:

(1) The number of parks in California, their size, and age.

(2) The number of rental parks.

(3) The number of cooperatively owned or condominium parks.

(4) The type of zoning in which parks exist.

(5) The number of mobilehome parks which are limited to adults only, seniors only, or which have other age limitations, and the number of family mobilehome parks.

(b) In establishing the procedures for, and conducting, the survey, the department shall consult with, and seek the cooperation of, representatives of local government, mobilehome park owners, mobilehome owners, and mobilehome park residents, and with the Legislature.

(c) The findings of the survey shall be reported by the department to the Legislature by no later than January 1, 1986.

SEC. 2. (a) In conjunction with the survey required by Section 1, the Department of Housing and Community Development shall also study means of providing incentives to encourage the construction of more family mobilehome parks in California and report its findings and recommendations to the Legislature by no later than January 1, 1986.

(b) In conducting the study specified in subdivision (a), the department shall convene a committee, which shall include members representing all segments of the manufactured housing industry, for the purpose of devising means of promoting the development of more family mobilehome parks in California.

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Mobilehome Park Revolving Fund to the Department of Housing and Community Development for purposes of this act.

CHAPTER 581

An act to add Section 402.2 to the Health and Safety Code, relating to vector control.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 402.2 is added to the Health and Safety Code, to read:

402.2. (a) It shall be unlawful for any person to import into the state any exotic vector without written approval from the state department.

(b) The state department shall issue an applicant written authority to import into the state any exotic vector upon a determination by the state department that the public health and safety will not be endangered thereby.

(c) "Exotic vector" means a vector species that is not native to California and is not commonly found in the state, as determined by regulation by the state department.

(d) Any violation of this section shall be a misdemeanor.

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

CHAPTER 582

An act to amend Section 1346.5 of the Health and Safety Code, and to amend Section 740 of the Insurance Code, relating to health insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 1346.5 of the Health and Safety Code is amended to read:

1346.5. If the commissioner determines that an entity purporting to be a health care service plan exempt from the provisions of Section 740 of the Insurance Code is not a health care service plan, the commissioner shall inform the Department of Insurance of that finding. However, if the commissioner determines that an entity is a health care service plan, the commissioner shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) of Section 740 of the Insurance Code, which are not subject to the jurisdiction of another agency of this or another state or the federal government and which the

commissioner knows to be operating in the state. There shall be no liability of any kind on the part of the state, the commissioner, and employees of the Department of Corporations for the accuracy of the list or for any comments made with respect to it. Additionally, any solicitor licensed by the Department of Corporations who advertises or solicits health care service plan coverage in this state described in subdivision (a) of Section 740 of the Insurance Code, which is provided by any personal entity described in subdivision (c) of that section, and where such coverage does not meet all pertinent requirements specified in the Insurance Code, and which is not provided or completely underwritten, insured or otherwise fully covered by a health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of plan coverage.

SEC. 2. Section 740 of the Insurance Code is amended to read:

740. (a) Notwithstanding any other provision of law, and except as provided herein, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the department unless the person or other entity shows that while providing such services it is subject to the jurisdiction of another agency of this or another state or the federal government.

(b) A person or entity may show that it is subject to the jurisdiction of another agency of this or another state or the federal government by providing to the commissioner the appropriate certificate or license issued by the other governmental agency which permits or qualifies it to provide those services for which it is licensed or certificated.

(c) Any person or entity which is unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government, shall submit to an examination by the commissioner to determine the organization and solvency of the person or the entity, and to determine whether or not such person or entity is in compliance with the applicable provisions of this code, and shall be required to obtain a certificate of authority to do business in California and be required to meet all appropriate reserve, surplus, capital, and other necessary requirements imposed by this code for all insurers.

(d) Any person or entity unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government shall be subject to all appropriate provisions of this code regarding the conduct of its business.

(e) The department shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) which are not subject to the jurisdiction of another agency of this

or another state or the federal government and which the department knows to be operating in this state. There shall be no liability of any kind on the part of the state, the department, and its employees for the accuracy of such list or for any comments made with respect to it.

(f) Any administrator licensed by the department who advertises or administers coverage in this state described in subdivision (a), which is provided by any person or entity described in subdivision (c), and where such coverage does not meet all pertinent requirements specified in this code and which is not provided or completely underwritten, insured or otherwise fully covered by an admitted life or disability insurer, hospital service plan or health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, and any production agency licensed by the department involved in the transaction, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of insurance or other coverage.

Any production agency obtaining knowledge of any coverage relative to the content and scope of a hospital service plan or health care service plan, as required under this subdivision, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, such knowledge regarding the content and scope of the plan and, specifically, as to the lack of insurance by an admitted carrier or other qualified plan.

(g) A health care service plan, as defined in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, shall not be subject to the provisions of this section.

(h) The department shall notify, in writing, the Commissioner of Corporations whenever it determines that a multiple employer trust qualifies as a health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health Safety Code.

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

In 1983, legislation was enacted for the regulation of entities providing insurance coverage in this state which were not previously regulated. That legislation would have been effective only until January 1, 1985. In order to continue to protect the interests of consumers in this state, it is necessary that this act take effect immediately.

CHAPTER 583

An act to amend Section 19141 of the Government Code, relating to state employees.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 19141 of the Government Code is amended to read:

19141. This section applies only to a permanent employee, or an employee who previously had permanent status and who, since such permanent status, has had no break in the continuity of his or her state service due to a permanent separation. As used in this section, "former position" is defined as in Section 18522, or a vacant position in any department, commission, or state agency for which he or she is qualified at substantially the same level.

Within the periods of time specified below, an employee who vacates a civil service position to accept an appointment to an exempt position shall be reinstated to his or her former position at the termination either by the employee or appointing power of the exempt appointment, provided he or she (a) accepted the appointment without a break in the continuity of state service, and (b) requests in writing reinstatement of the appointing power of his or her former position within 10 working days after the effective date of such termination.

The reinstatement may be requested by the employee only within the following periods of time:

(a) At any time after the effective date of the exempt appointment if:

(1) Appointed under subdivision (a), (b), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the California Constitution.

(2) Appointed under Section 2.1 of Article IX of the California Constitution.

(3) Appointed under Section 22 of Article XX of the California Constitution.

(4) Appointed to an exempt position under the same appointing power as the former position even though a shorter period of time may be otherwise specified for that appointment.

(b) Within six months after the effective date of the exempt appointment if appointed under subdivision (h), (i), (k), or (*l*) of Section 4 of Article VII of the California Constitution.

(c) Within four years after the effective date of an exempt appointment if appointed under any other authority.

An employee who vacates his or her civil service position to accept an assignment as a member, inmate, or patient helper under subdivision (j) of Section 4 of Article VII of the California

Constitution shall not have a right to reinstatement.

An employee who is serving under an exempt appointment retains a right of reinstatement when he or she accepts an extension of that exempt appointment or accepts a new exempt appointment, provided the extension or new appointment is made within the specified reinstatement time limit and there is no break in the continuity of state service. The period for which such right is retained is for the period applicable to the extended or new exempt appointment as if that appointment had been made on the date of the initial exempt appointment.

When an employee exercises his right of reinstatement and returns to his former position, the service while under an exempt appointment shall be deemed to be time served in the former position for the purpose of determining his or her seniority and eligibility for merit salary increases.

If the termination of an exempt appointment is for a reason contained in Section 19997 and the employee does not have a right to reinstatement he or she shall have his or her name placed on the departmental and general reemployment lists for the class of his former position.

SEC. 2. The reinstatement rights of employees appointed to an exempt position prior to the effective date of this act shall be applied under Section 19141, as amended by this act.

CHAPTER 584

An act to amend Sections 39297 and 39298 of the Education Code, relating to education.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 39297 of the Education Code is amended to read:

39297. A school district advisory committee appointed pursuant to Section 39296 shall consist of not less than seven nor more than 11 members, and shall be representative of each of the following:

(a) The ethnic, age group, and socioeconomic composition of the district.

(b) The business community, such as store owners, managers, or supervisors.

(c) Landowners or renters, with preference to be given to representatives of neighborhood associations.

(d) Teachers.

(e) Administrators.

(f) Parents of students.

(g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to, knowledge of the zoning and other land use restrictions of the cities or cities and counties in which surplus space and real property is located.

SEC. 2. Section 39298 of the Education Code is amended to read:

39298. The school district advisory committee shall do all of the following:

(a) Review the projected school enrollment and other data as provided by the district to determine the amount of surplus space and real property.

(b) Establish a priority list of use of surplus space and real property that will be acceptable to the community.

(c) Cause to have circulated throughout the attendance area a priority list of surplus space and real property and provide for hearings of community input to the committee on acceptable uses of space and real property.

(d) Make a final determination of limits of tolerance of use of space and real property.

(e) Forward to the district governing board a report recommending uses of surplus space and real property.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 585

An act to add Section 53066.5 to the Government Code, relating to cable television.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 53066.5 is added to the Government Code, to read:

53066.5. Unless a cable television system operating under a franchise granted pursuant to Section 53066 incorporates technology

to prevent unwanted reception of audio and video signals from occurring under normal operating conditions, the system shall provide a written statement to all new subscribers advising them that audio or video signals, or both, may be present on certain channels to which they do not subscribe.

CHAPTER 586

An act to amend Section 21080.2 of the Public Resources Code, relating to environmental quality.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 21080.2 of the Public Resources Code is amended to read:

21080.2. In the case of a project described in subdivision (c) of Section 21065, the determination required by Section 21080.1 shall be made within 30 days from the date on which an application for a project has been received and accepted as complete by the lead agency. This period may be extended 15 days upon the consent of the lead agency and the project applicant.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 587

An act to amend Sections 10167.9 and 10167.10 of the Business and Professions Code, relating to prepaid rental listing services.

[Approved by Governor July 18, 1984 Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 10167.9 of the Business and Professions Code is amended to read:

10167.9. (a) Prior to the acceptance of a fee from a prospective tenant, a licensee shall provide the prospective tenant with a written contract which shall include at least the following:

(1) The name of the licensee and the addresses and telephone numbers of the principal office or location of the licensee and of the location, or branch office of a real estate broker, providing the listing to the prospective tenant.

(2) Acknowledgment of receipt of the fee, including the amount.

(3) A description of the service to be performed by the licensee, including significant conditions, restrictions, and limitations where applicable.

(4) The prospective tenant's specifications for the rental property, including, but not limited to:

(A) Type of structure, including, but not limited to, detached single-family home, apartment, or duplex.

(B) Location by commonly accepted residential area name, by designation of boundary streets, or by any other manner affording a reasonable means of identifying locations acceptable to the prospective tenant.

(C) Furnished or unfurnished.

(D) Number of bedrooms required.

(E) Maximum acceptable monthly rental.

(5) The contract expiration date, which shall not be later than 90 days from the date of execution of the contract.

(6) A clause setting forth the right to a full or partial refund of the fee paid in advance as provided in Section 10167.10.

(7) The signature of the licensee or of the designated agent, real estate salesperson, or employee acting on behalf of the licensee.

(8) A clause in bold type letters outlining the small claims court remedy available to the prospective tenant.

(b) The original of each such contract shall be retained by the licensee for a period of not less than six months from the date of termination of the contract during which time the contract shall be subject to examination by a duly authorized representative of the commissioner.

(c) The form of contract proposed to be used by a licensee to effect compliance with this section shall be filed with the department prior to use. Any modification of a form previously filed with the department, including a change in the name or business address of the licensee, shall also be filed prior to use. The department shall withhold the issuance or renewal of a license until the department has approved the contract.

(d) If a prospective tenant first contacts the licensee by telephone from a distance of more than 50 miles from the nearest office of the service, the licensee shall not be in violation of this section by taking

credit card information from the prospective tenant by telephone for the purpose of charging the credit card account of the prospective tenant for the fee, if the licensee furnishes the information specified in subdivision (a) during the same telephone conversation and mails written confirmation and a list of available rental properties to the prospective tenant no later than the next business day.

SEC. 2. Section 10167.10 of the Business and Professions Code is amended to read:

10167.10. (a) (1) A licensee, other than a real estate broker, shall refund in full the advance fee paid by a prospective tenant if the licensee does not, within five days after execution of the contract, supply at least three rental properties then available to the prospective tenant and meeting the specifications of the contract.

(2) A licensee will be deemed to have supplied information meeting the specifications of the prospective tenant if the information supplied meets the contract specifications with reference to: (i) type of structure; (ii) designated area; (iii) furnished or unfurnished; (iv) number of bedrooms; (v) maximum rental; and (vi) any other specification expressly set forth in the contract. A demand for the return of the fee shall be made by or on behalf of the prospective tenant within 10 days following the expiration of the five-day period referred to above by delivery or by mailing by registered or certified mail to the address of a location, or branch office of a real estate broker, set forth in the contract.

(b) A licensee shall refund any amount over and above the sum of a twenty-five dollar ($25) service charge to the prospective tenant if the prospective tenant obtains a rental other than through the services of the licensee during the term of the contract or does not obtain a rental, provided that the prospective tenant demands a return of that part of the fee within 10 days after the expiration of the contract. Within 10 days of receipt of such a demand by the prospective tenant, the licensee shall refund any amount over and above the sum of a twenty-five dollar ($25) service charge to the prospective tenant.

(c) Each contract, other than a contract employed by a licensee who is a real estate broker, shall contain provisions which shall read as follows unless different language shall have been approved in writing by the department prior to use:

RIGHT TO REFUND

(Full caps, bold face or italicize)

"If, within five days after payment of an advance fee, the licensee has not supplied the prospective tenant with at least three available rental properties meeting the specifications of the contract as to (i) type of structure; (ii) designated area; (iii) furnished or unfurnished; (iv) number of bedrooms; (v) maximum rental; and (vi) any other specification expressly set forth in the contract, the full amount of the fee paid shall be refunded to the prospective tenant upon presentation of evidence

of such failure within 10 days after the expiration of the five-day period.

"If the prospective tenant obtains a rental other than through the services of the licensee during the term of this contract or if the prospective tenant does not obtain a rental through the services of the licensee during the term of the contract, the licensee shall refund the fee received in excess of a twenty-five dollar ($25) service charge to the prospective tenant within 10 days after receipt by the licensee of the demand for refund.

To be entitled to a refund in excess of the service charge, the prospective tenant must mail or deliver the demand for refund not later than 10 days after expiration of this contract."

(d) Each contract employed by a real estate broker shall contain provisions which shall read as follows, unless different language shall have been approved in writing by the department prior to its use:

RIGHT TO REFUND

(Full caps, bold face or italicize)

"If the prospective tenant obtains a rental other than through the services of the licensee during the term of this contract or if the prospective tenant does not obtain a rental through the services of the licensee during the term of the contract, the licensee shall refund the fee received in excess of a twenty-five dollar ($25) service charge to the prospective tenant within 10 days after receipt by the licensee of the demand for refund.

To be entitled to a refund in excess of the service charge, the prospective tenant must mail or deliver the demand for refund not later than 10 days after expiration of this contract."

(e) This section shall not apply to a person purchasing rental information for a purpose other than that of locating a rental unit for personal use or the use of a designated person. The contract shall so provide and shall be initialed by the customer.

(f) If the licensee fails to make a refund as provided in this section and if the denial or delay in making the refund is found to have been done in bad faith, a court of appropriate jurisdiction, including a small claims court, shall be empowered to award damages to the plaintiff in an amount not to exceed five hundred dollars ($500) in addition to actual damages sustained by the plaintiff. If the licensee refuses or is unable to pay the damages awarded by the court, the award may be satisfied out of the security required under Section 10167.7.

CHAPTER 588

An act to amend, repeal, and add Section 16709 to, and to add and repeal Section 16709.2 of, the Welfare and Institutions Code, relating to health services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 16709 of the Welfare and Institutions Code is amended to read:

16709. (a) The board of supervisors of a county with a population under 300,000, as determined in accordance with the 1980 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) For the period from January 1, 1983, to June 30, 1983, each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than November 15, 1982. For each fiscal year thereafter a notice adopted by the board of supervisors shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish the County Medical Services Program Account, hereinafter referred to as the Program Account, in the County Health Services Fund. The following amounts may be deposited in the account:

(1) Moneys allotted under subdivisions (c) and (d) of Section 16703 to each county electing to contract with the department under this section.

(2) Any interest earned upon money deposited in the account.

(3) Any other additional moneys provided by participating counties or appropriated by the Legislature to the account.

(e) Moneys in the account specified in subdivision (d) shall be used by the department to (1) pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (j); and (2) defray the department's administrative costs incurred in implementing this section. Costs for

administering this section shall be borne by the participating counties out of the account specified in subdivision (d). For costs of the initial implementation of this section, which are incurred prior to signing contracts with the counties, the department is authorized to transfer up to five hundred thousand dollars ($500,000) from Item 4260-101-001 (b) to Item 4260-101-001 (c) to fund fiscal intermediary changes and to Item 4260-001-001 to fund additional staff. The funds shall be repaid from the account specified in subdivision (d) to the General Fund by June 30, 1984. Any change order to the Medi-Cal fiscal intermediary contract that is required to carry out this section shall be exempted from the 30-day notice to the Legislature required by the Budget Act of 1982, Section 2, Item 4260-101-001, provision 22. This change order shall be exempt from the Department of General Services review and approval. The funds shall be repaid by funds specified in subdivision (e) to the General Fund by June 30, 1984. Transfer of funds shall be subject to Department of Finance approval and legislative notification.

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from the investment shall be deposited in the Program Account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code. All this interest shall be available to reimburse program-covered services, or for expenditure to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account, hereinafter referred to as the Reserve Account, in the County Health Services Fund. Six months after the end of the 1982–83 fiscal year and thereafter, six months after the end of each fiscal year, any projected savings in the Program Account shall be transferred to the Reserve Account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the Program Account for that fiscal year. When funds in the Reserve Account are estimated to exceed 10 percent of the total allocation available for health services made pursuant to subdivisions (c) and (d) of Section 16703 for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j).

(h) Moneys in the Program Account and the Reserve Account shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4

(commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the Program Account, notwithstanding Section 16705.7 of the Government Code.

(i) Moneys appropriated pursuant to subdivisions (c) and (d) of Section 16703 for counties electing to contract with the department pursuant to this section shall be deposited monthly as provided in subdivision (b) of Section 16706 in the Program Account after execution of the contract specified in subdivision (a). The Department of Finance may accelerate the deposit of the funds when necessary to meet cash flow requirements.

(j) The state shall be at risk for any amount over and above the amounts deposited in the Reserve Account. As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or alter rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for the services. The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the Program Account and may adjust eligibility and benefit criteria and payments accordingly.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if (1) the hospital has a contract with the state for these rates of reimbursement, and (2) the California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(n) This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 1.5. Section 16709 is added to the Welfare and Institutions Code, to read:

16709. (a) The board of supervisors of a county with a population under 300,000, as determined in accordance with the 1980 decennial census, may enter into a contract with the department, and the department may enter into a contract with such county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for such services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) For each fiscal year, a notice adopted by the board of supervisors shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish a separate account in the County Health Services Fund. The following amounts may be deposited in the account: (1) moneys allotted under subdivisions (c) and (d) of Section 16703 to each county electing to contract with the department under this section; (2) any interest earned upon money deposited in the account; (3) any other additional moneys provided by participating counties or appropriated by the Legislature to the account.

(e) Moneys in the account specified in subdivision (d) of this section shall be used by the department to (1) pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (i) of this section; and (2) defray the department's administrative costs incurred in implementing the provisions of this section. Costs for administering the provisions of this section shall be borne by the participating counties out of the account specified in subdivision (d).

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from such investment shall be deposited in this fund, notwithstanding Section 16305.7 of the Government Code.

(g) At the end of each fiscal year, any savings in the account which accrue from contracts, once all service liabilities are liquidated, shall

revert to the General Fund. The Governor may use these funds so reverted to establish an operating reserve for purposes of this section. If the Governor seeks to establish an operating reserve, the use of these funds shall be included in a separate line item in the Governor's Budget.

(h) Moneys appropriated pursuant to subdivisions (c) and (d) of Section 16703 for counties electing to contract with the department pursuant to this section shall be deposited monthly as provided in subdivision (b) of Section 16706 in the account specified in subdivision (d) of this section after execution of the contract specified in subdivision (a). The Department of Finance may accelerate the deposit of such funds when necessary to meet cash flow requirements.

(i) For each fiscal year, the counties shall be collectively at risk for any amount over and above that amount. Counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the account and may adjust eligibility and benefit criteria and payments accordingly.

(j) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 6 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(k) The state shall not incur any liability except as specified in this section.

(*l*) This section shall become operative on July 1, 1988.

SEC. 2. Section 16709.2 is added to the Welfare and Institutions Code, to read:

16709.2. (a) The department may, upon request from any county contracting with the department pursuant to subdivision (a) of Section 16709, provide technical assistance to assist the county in planning and implementing an independently administered health care services program for the indigent which utilizes funds allocated pursuant to Section 16703.

(b) Notwithstanding Section 16707, the Legislature in the annual Budget Act may appropriate funds to utilize savings from allocations made from the Medically Indigent Services Account pursuant to subdivision (b) of Section 16703 for (1) the administration and direct provision of this technical assistance, (2) the purchase of necessary consultative services, or (3) the allocation of funds for one-time projects not to exceed fifty thousand dollars ($50,000) per county upon application from the board of supervisors of that county, as long as the amount expended does not exceed five hundred thousand dollars ($500,000) in any fiscal year.

(c) This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

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

In order to ensure that small counties are able to provide, or arrange for, the provision of adequate health care services, it is necessary that this act go into immediate effect.

CHAPTER 589

An act to amend and repeal Section 204.3 of, and to add and repeal Section 204.4 of, the Code of Civil Procedure, relating to juries.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 204.3 of the Code of Civil Procedure is amended to read:

204.3. (a) The jury commissioner shall diligently inquire and inform himself or herself in respect to the qualifications of persons on the master jury list or source list who may be summoned for trial jury duty. He or she may require any person to answer, under oath to be administered by him or her, all such questions as he or she may address to such person, touching his or her name, age, residence, occupation and qualifications as a trial juror, and also all questions as to similar matters concerning other persons of whose qualifications for trial jury duty he or she has knowledge. The commissioner may also require any person to complete the questionnaire prescribed by Section 204.4. The commissioner and his or her assistants, referred to in Sections 69895 and 69896 of the Government Code, shall have power to administer oaths and shall be allowed actual traveling expenses incurred in the performance of their duties. Such traveling expenses shall be audited, allowed, and paid out of the general fund of the county.

(b) Any person who fails to return a completed juror questionnaire as instructed may be summoned to appear before the jury commissioner to fill out the questionnaire. Any information thus acquired by the court or jury commissioner shall be noted on the juror questionnaire.

(c) All records and papers compiled and maintained by the jury commissioner in connection with selection and service of jurors shall be preserved for three years after the list used in their selection is compiled or for any longer period ordered by the court.

(d) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date

is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 204.3 of the Code of Civil Procedure, as amended by Section 13 of Chapter 81 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 204.4 is added to the Code of Civil Procedure, to read:

204.4. (a) If a jury commissioner requires a person to complete a questionnaire as authorized by Section 204.3, the questionnaire shall ask for the following information and shall be in substantially the following form:

1. Qualifications: Check Yes or No

	Yes	No
1a. I am able to read and understand English.	____	____
1b. I am a citizen of the United States.	____	____
1c. I am a resident of _____ County.	____	____
1d. I am 18 years or older.	____	____
1e. I am now serving as a grand juror.	____	____
1f. I have been convicted of a felony.	____	____
If "yes", my civil rights have been restored.	____	____

2. Exemption: Please mark the appropriate box and explain in Section 4 below.

____ I am a peace officer as defined in Sections 830.1 and 830.2 of the Penal Code and request exemption to jury service pursuant to Section 202.5 of the Code of Civil Procedure.

____ I am an active judge of a court of record and request exemption to jury service pursuant to Section 202.5 of the Code of Civil Procedure. (Please indicate employing agency or court in explanation section below)

3. Request for Excuse: If you request an excuse based upon a claim of "undue hardship" under Section 200 of the Code of Civil Procedure, please mark the appropriate box and explain in Section 4 below.

____ 3a. Extreme financial burden.
____ 3b. Physical or mental incapacity.
____ 3c. Service as juror would jeopardize protection of public health and safety.
____ 3d. Must care for a dependent between 8 a.m. and 5 p.m. daily.
____ 3e. Served as a trial or grand juror during the past 12 months.
____ 3f. Other (specify below).

4. Explanation: (Must be completed for any item checked in Section 2 or 3 above.)

_____
_____
_____
_____

5. Information Necessary for Summoning Juror

Mailing Address:
Home Phone:
Business Phone:

_____ _____
Date Signature

(b) In addition to the questions set forth in subdivision (a), a jury commissioner may include additional questions which may be used to expedite voir dire, which may include, but are not limited to, questions as to age, occupation, employer, marital status, occupation of spouse, spouse's employer and number of children.

(1) If the jury questionnaire is for the sole purpose of qualifying jurors, the questions authorized by this paragraph may be answered at the option of the person completing the questionnaire, and the form shall indicate that they need not be answered.

(2) If the jury questionnaire serves also as a summons for jury service, the questions shall be required to be answered by the person completing the questionnaire and the form shall indicate that the questions are necessary for expediting voir dire.

(c) In addition to the questions set forth in subdivisions (a) and (b), a jury commissioner may request authorization from the Judicial Council to include additional questions that are necessary to make the questionnaire comply with state statutes or to make the form compatible with established local procedures.

(d) Nothing in this section is intended to limit the questions jury commissioners may require qualified jurors to answer under any other provision of law.

(e) The questionnaire authorized by Section 204.3 may only include questions authorized by subdivision (a), (b), or (c). However, the jury commissioner may include information to inform the prospective juror about jury service and the impanelment process.

(f) The Judicial Council shall conduct a study to determine the effects of the juror selection process on jurors' rights to privacy. The study shall include a survey of courts, persons summoned to be jurors, and other interested persons and organizations concerning the effects on those rights of jury commissioners' questionnaires and voir dire at trial. The report, along with any

recommendations for further action, shall be submitted to the Governor and Legislature before January 1, 1987.

(g) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

CHAPTER 590

An act to amend Sections 18671.6 and 18673 of the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 18671.6 of the Business and Professions Code is amended to read:

18671.6. The executive officer or designated staff representative shall investigate all applications from persons or organizations for licensure. He or she shall file a written recommendation over his or her signature with regard to the granting of the license. The executive officer shall also, when directed by the commission, investigate appeals from the denial by the commission of any license and report his or her findings to the commission.

SEC. 2. Section 18673 of the Business and Professions Code is amended to read:

18673. The commission may license clubs to conduct, hold, or give, and shall license referees, judges, matchmakers, announcers, and timekeepers, and designated representatives of the promoter or facility responsible for ticket sellers and box-office employees and contracted ticket agencies, who are not employed by a city or county owned and operated facility, and may license assistant matchmakers, doormen, ushers, and corporation treasurers, to participate in, or be employed in connection with, professional or amateur boxing contests, sparring or wrestling matches, or wrestling exhibitions.

No club may conduct, hold, or give, and no person performing tasks for which licensure is required by the commission may participate in, or be employed in connection with, any such boxing contest, sparring or wrestling matches, or wrestling exhibitions unless the club or person has been licensed for that purpose by the commission.

CHAPTER 591

An act to amend Sections 31453 and 31596 of, and to repeal and add Section 31751 of, the Government Code, relating to public employee retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 31453 of the Government Code is amended to read:

31453. An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund. Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 60 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors such changes in the rates of interest, in the rates of contributions of members, and in county and district appropriations as are necessary. With respect to the rates of interest to be credited to members and to the county or district, the board may, in its sound discretion, recommend a rate which is higher or lower than the interest assumption rate established by the actuarial survey. No adjustment shall be included in the new rates for time prior to the effective date of the revision. With the approval of the board of retirement and the board of supervisors, the cost of actuarial valuations and service may be paid from the fund.

SEC. 2. Section 31596 of the Government Code is amended to read:

31596. (a) When securities belonging to or held for the retirement association are sold, the county treasurer shall deliver the securities to the purchaser upon receiving the proceeds, and may execute any and all documents necessary to transfer title. The duties imposed upon the county treasurer by this article are a part of his official duties, for the faithful performance of which he is liable on his official bond.

(b) The treasurer may with the approval of the retirement board and the board of supervisors authorize a trust company or a trust department of any state or national bank authorized to conduct the business of a trust company in this state or the Federal Reserve Bank of San Francisco or any branch thereof within this state, to act as custodian of any securities owned by the retirement association. Any

such bank or trust company may be authorized to collect the income from the securities for the treasurer and deposit the proceeds in an account of the treasurer for the retirement association. The compensation of the bank or trust company for the custodial services shall be fixed by agreement, shall not be considered a cost of administration of the retirement system, and shall be considered as a reduction in earnings from those investments or a charge against the assets of the retirement association as determined by the board.

(c) When an investment is made in deeds of trust and mortgages as provided in Section 31595 (f) and an agreement is entered into with a bank or mortgage service company to service the deeds of trust and mortgages for a fee stipulated in the agreement, the fee shall not be considered a cost of administration but shall be considered a reduction of earnings from the deeds of trust and mortgages.

(d) When an agreement is entered into by the board of retirement with investment counsel for consulting or management services in connection with the administration of the board's investment program, any fees stipulated in the agreement to be paid to investment counsel shall not be considered a cost of administration but shall be considered as a reduction in earnings from the investments or a charge against the assets of the retirement association as determined by the board. The treasurer is authorized to make payment for the service in the manner prescribed in Section 31590.

SEC. 3. Section 31751 of the Government Code is repealed.

SEC. 4. Section 31751 is added to the Government Code, to read:

31751. (a) (1) The board of supervisors of Contra Costa County may make this section, Tier Two, applicable to officers and employees for whom it is the governing body, by adopting a resolution specifying the future operative date of its application.

(2) After the board of supervisors has adopted such a resolution, the governing body of a district not governed by the board of supervisors may make this section applicable as Tier Two to its officers and employees on and after the future operative date it specifies.

(b) Except as otherwise provided in this section, it shall cover all officers and employees who become members or return to membership in the county on or after April 4, 1980, and in a district on or after the date of its applicability thereto.

(c) (1) This section shall not cover any employee who is in, or eligible for, safety membership under this chapter.

(2) This section shall not cover any person who is a member of the retirement system in the county or district on the operative date of its application thereto unless and until the person voluntarily in writing irrevocably requests coverage.

(3) This section shall not cover any member who does not request coverage, is then laid off, and later returns to membership.

(4) This section shall not cover any member who does not request

coverage, then becomes a deferred member, and later returns to active membership.

(5) This section shall not cover any person referred to in subdivision (d) (2) (iii) who does not request coverage.

(d) (1) The board of supervisors shall adopt regulations allowing individual county and district employees to irrevocably request coverage under this Tier Two.

(2) The regulations shall specify the period during which each person may request coverage. (i) For persons who are employees on the applicability date of this section, Tier Two, to the county or district, this period shall not exceed one year after that date. (ii) For persons not under (i) above, who before the Tier Two applicability date chose deferred retirement under Article 9 (commencing with Section 31700) from the county's Tier One retirement system, and who thereafter while still in deferred status returned to active membership, this period shall not exceed 90 days after that return. (iii) For persons not under (i) who enter or reenter employment in the county or the district, for the first time after Tier Two is applicable thereto, with reciprocal rights under Article 15 (commencing with Section 31830), this period shall not exceed 90 days after that entry or reentry.

(e) Anyone requesting coverage as provided for here, who becomes permanently incapacitated as defined in Section 31720.1, shall be granted a disability allowance under Section 31727.01 if the member has completed five years of service.

(f) This section is intended to, and shall, apply retroactively, from the effective date of the original enactment of Section 31751, April 4, 1980, forward so that its beneficial effects and those of the original enactment are available to all persons covered by this section as though it had been originally enacted in its present form.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Recruitment is now underway for at least three critical positions, and the ability of Contra Costa County to recruit qualified candidates is detrimentally affected by the required drastic reduction in retirement benefits for most employment candidates.

CHAPTER 592

An act to amend and supplement the Budget Act of 1984 by adding Items 3790-102-721 and 3790-497-721 thereto, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Item 3790-102-721 is added to the Budget Act of 1984, to read:

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

3790-102-721—For grants to counties, cities, and districts, as defined, in Section 5096.144, pursuant to subdivisions (a) and (e) of Section 5096.151, of the Public Resources Code, Department of Parks and Recreation, payable from the Parklands Fund of 1980 175,339

Schedule:

(a) Projects in San Bernardino County

(1) City of Rancho Cucamonga, Arrow Park 175,339

Provisions:

1. Funds appropriated in this item shall be available for acquisition, development, rehabilitation, or any combination thereof, and are available for expenditure during the 1984–85, 1985–86, and 1986–87 fiscal years.

SEC. 2. Item 3790-497-721 is added to the Budget Act of 1984, to read:

3790-497-721—Reversions, Department of Parks and Recreation. As of the effective date of the act adding this item, the unencumbered balance of the appropriation provided in Item 379-101-721(c)(346), Budget Act of 1981, City of Rancho Cucamonga, Heritage/Hellman/Baseline Parks, shall revert to the unappropriated surplus of the Parklands Fund of 1980.

SEC. 3. Pursuant to Section 5096.96 of the Public Resources Code, the County of San Bernardino is hereby authorized to transfer approximately 6.5 acres of the Cucamonga Guasti Regional Park, which were acquired with a grant of State Beach, Park, Recreational, and Historical Facilities Fund of 1974 moneys appropriated by Item 412A(257) of the Budget Act of 1974 (Chapter 1522 of the Statutes of 1974) and under Department of Parks and Recreation project No. 36-0025, to the San Bernardino County Flood Control District in exchange for approximately 20 acres of district-owned land of equal or greater recreational value contiguous to the park; provided that, prior to the exchange, the County of San Bernardino shall enter into an agreement with the Department of Parks and Recreation with respect to the lands to be acquired by the county as provided in Section 5096.96 of the Public Resources Code.

SEC. 4. Sections 1 and 2 of this act shall become operative on July 1, 1984.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the development of urgently needed park and recreation facilities in the City of Rancho Cucamonga, and to permit the County of San Bernardino to exchange lands needed for flood control purposes for lands needed for park and recreation purposes, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 593

An act to amend Section 115 of the Penal Code, relating to instruments.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 115 of the Penal Code is amended to read:

115. (a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.

(b) Each instrument which is procured or offered to be filed, registered, or recorded in violation of subdivision (a) shall constitute a separate violation of this section.

(c) Except in unusual cases where the interests of justice would

best be served if probation is granted, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person with a prior conviction under this section who is again convicted of a violation of this section in a separate proceeding.

(2) Any person who is convicted of more than one violation of this section in a single proceeding, with intent to defraud another, and where the violations resulted in a cumulative financial loss exceeding one hundred thousand dollars ($100,000).

CHAPTER 594

An act to amend Sections 5020, 5020.3, and 5081.2 of the Business and Professions Code, relating to accountants.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 5020 of the Business and Profession Code is amended to read:

5020. The board shall appoint an administrative committee of not less than three nor more than five members who shall be public accountants, to perform any of the following duties, and the committee shall be vested with the full powers of the board for such purposes:

(a) To receive and investigate complaints and to initiate and conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of public accountants.

(b) To receive and investigate complaints and to initiate and conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of any of the provisions of this chapter by public accountants.

SEC. 2. Section 5020.3 of the Business and Professions Code is amended to read:

5020.3. The board shall appoint an administrative committee of not less than 10 nor more than 12 members, who shall be certified public accountants, to perform any of the following duties, and the committee shall be vested with the full powers of the board for such purposes:

(a) To receive and investigate complaints and to initiate and conduct investigations or hearings with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of certified public accountants.

(b) To receive and investigate complaints and to initiate and

conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of any of the provisions of this chapter by certified public accountants.

SEC. 3. Section 5081.2 of the Business and Professions Code is amended to read:

5081.2. The board may admit to the examination any person who will complete his or her college study within 120 days after the date of the examination. An applicant admitted to the examination pursuant to this section who is found to have willfully misrepresented his or her status shall be denied credit for any passing grades received on the examination.

CHAPTER 595

An act to add and repeal Section 2714 of the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 2714 is added to the Penal Code, to read:

2714. The Governor shall convene an interdepartmental task force to identify projects and operations which may feasibly and economically be performed by convicts for the benefit of the state within the meaning of Section 5 of Article XIV of the California Constitution. The task force shall contain representatives from each of the following departments: Corrections, General Services, Economic and Business Development, Finance, Forestry, Parks and Recreation, Food and Agriculture, Transportation, Motor Vehicles, and Military, and from each of the following offices or agencies: Prison Industry Authority, State Printer, Energy Commission, University of California, California State University, and the Office of Planning and Research. The Governor shall solicit the participation of representatives of both industry and labor in the task force's deliberations.

The task force shall be chaired by the Governor or his or her designee. The task force shall examine potential goods and services which prisoners incarcerated in the state prison system may provide to public entities, identify vacant public land suitable for prison farms under the auspices of Section 2715 or other authority, and consider any available means to increase correctional self-sufficiency.

The task force shall also, in consultation with representatives of labor unions, develop guidelines and criteria on (a) the types of work projects which are appropriate for inmate labor and (b) what

safeguards are appropriate for employees whose jobs may be displaced by inmate labor.

The Governor shall report the findings and recommendations of the task force to the Legislature on or before December 3, 1984, or six months after the effective date of this act, whichever is later.

This section shall remain in effect until June 30, 1985, and as of that date is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reverse the decline in prison industries and to realize the purposes enumerated in Article 1 (commencing with Section 2800) of Chapter 6 of Title 1 of Part 3 of the Penal Code, it is necessary that this act take immediate effect.

CHAPTER 596

An act to amend Sections 139, 4600, and 5307.1 of, to add Article 2.5 (commencing with Section 4620) to Chapter 2 of Part 2 of Division 4 of, and to repeal Section 4601.5 of, the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 139 of the Labor Code is amended to read:

139. The administrative director shall appoint a Medical and Chiropractic Advisory Committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the Medical and Chiropractic Advisory Committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The physician and surgeon members shall be appointed after consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local associations of the chiropractic profession for a term of two years. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings of the Medical and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and

assist the medical director and shall perform such other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of clinical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the referee in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

The examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for the examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau, or in accordance with Section 5703.5.

SEC. 2. Section 4600 of the Labor Code is amended to read:

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a

facility of his own choice within a reasonable geographic area. However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

This section shall become operative on July 1, 1984.

SEC. 3. Section 4601.5 of the Labor Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 4620) is added to Chapter 2 of Part 2 of Division 4 of the Labor Code, to read:

Article 2.5. Medical-Legal Expenses

4620. For purposes of this article, a medical-legal expense means any costs and expenses incurred by or on behalf of any party, the administrative director, the board, or a referee for X-rays, laboratory fees, other diagnostic tests, medical reports, medical testimony, and, as needed, interpreter's fees, for the purpose of proving or disproving a contested claim.

4621. In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for his or her medical-legal expenses reasonably, actually, and necessarily incurred. The reasonableness of, and necessity for, incurring these expenses shall be determined with respect to the time when the expenses were actually incurred.

Where, at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board, or a referee, the employee submits to examination by a physician, he or she shall be entitled to receive, in addition to all other benefits herein provided, all reasonable expenses of transportation, meals, and lodging incident to reporting for the examination to the same extent and manner as provided for in Section 4600.

4622. All medical-legal expenses for which the employer is liable shall, upon receipt by the employer of all reports and documents required by the administrative director incident to the services, be paid to whom the funds and expenses are due, as follows:

(a) Except as provided in subdivision (b), within 60 days after receipt by the employer of each separate, written billing and report, and where payment is not made within this period, that portion of the billed sum then unreasonably unpaid shall be increased by 10 percent, together with interest thereon at the rate of 7 percent per annum retroactive to the date of receipt of the bill and report by the employer. Where the employer, within the 60-day period, contests the reasonableness and necessity for incurring the fees, services, and expenses, payment shall be made within 20 days of the filing of an order of the appeals board directing payment.

The penalty provided for in this subdivision shall not apply if (1) the employer pays the provider that portion of his or her charges which do not exceed the amount deemed reasonable pursuant to subdivision (c) of Section 4624 within 60 days of receipt of the report and itemized billing, and, (2) the appeals board sustains the employer's position in contesting the reasonableness or necessity for incurring the expenses. If the employer prevails before the appeals board, the referee shall order the physician to reimburse the employer for the amount of the paid charges found to be unreasonable.

(b) Where requested by the employee, or the dependents of a deceased employee, within 20 days from the filing of an order of the appeals board directing payment, and where payment is not made within that period, that portion of the billed sum then unpaid shall be increased by 10 percent, together with interest thereon at the rate of 7 percent per annum retroactive to the date of the filing of the order of the board directing payment.

(c) The employer shall notify, in writing, the provider of the services, the employee, or if represented, his or her attorney, if the employer contests the reasonableness or necessity of incurring these expenses, and shall indicate the reasons therefor.

The appeals board shall promulgate all necessary and reasonable rules and regulations to insure compliance with this section, and shall take such further steps as may be necessary to guarantee that the rules and regulations are enforced.

The provisions of Sections 5800 and 5814 shall not apply to this section.

4623. All medical-legal reports filed in any proceeding shall be accompanied by a copy of the billing for these services on a form prescribed by the administrative director which shall indicate the physician's specialty, if any, and show separately the charges for all of the following:

(a) A review of medical records.

(b) Compiling the patient's medical history and performing a medical examination of the patient.

(c) Report preparation, including necessary research.

(d) The total charge.

The information contained on these forms shall be utilized by the administrative director to promulgate the range of medical-legal fees as required by Section 4624.

4624. (a) Annually, commencing on November 1, 1986, the administrative director shall publish the range of industrial medical-legal fees charged by independent medical examiners, agreed medical examiners, and physicians examining for either the applicant or defendant for the 12 months ending the previous June 30.

(b) The range of charges shall be shown by five specialty categories: orthopedics, internal medicine and cardiology, neurology, psychiatry, and all others. The 80th percentile of these charges for each health service area, adjusted by multiplying the 80th percentile by one plus one-half of the percentage change in the Physician Fee Index published by the California Medical Association for the 12 months ending the previous June 30, shall be shown in all instances.

(c) Charges of all physicians providing industrial medical-legal evaluations shall be rebuttably presumed reasonable if the charges do not exceed the 80th percentile of fees for the appropriate health service area in the appropriate specialty as established in subdivision (b). Charges exceeding the 80th percentile for the involved specialty may be found reasonable if accompanied by supporting information provided by the physician.

4625. All charges for industrial medical-legal evaluations which are rebuttably presumed reasonable pursuant to subdivision (c) of Section 4624 shall be paid promptly pursuant to Section 4622.

4626. All charges for X-rays, laboratory services, and other diagnostic tests provided in connection with an industrial medical-legal evaluation shall be billed in accordance with the official medical fee schedule adopted by the administrative director pursuant to Section 5307.1 and shall be itemized separately in accordance with rules promulgated by the administrative director.

4627. The board and the administrative director may promulgate such reasonable rules and regulations as may be necessary to interpret this article and compel compliance with its provisions.

SEC. 5. Section 5307.1 of the Labor Code is amended to read:

5307.1. The administrative director, after public hearings, shall adopt and revise, no less frequently than biennially, an official medical fee schedule which shall be prima facie evidence of the reasonableness of fees charged for medical services provided pursuant to this division.

Nothing in this section shall prohibit a medical provider from charging an employer or carrier fees in excess of those set forth on the official medical fee schedule, when reasonable, and accompanied by itemization and explanation; provided, however, that in no event shall a physician charge in excess of his or her usual fee.

In the event of a dispute between the physician and the employer or carrier concerning the medical fees charged, the physician may be allowed a reasonable fee for testimony, if a physician testifies pursuant to the employer's or carrier's subpoena, and the referee determines that the medical fee charged was reasonable.

Except as provided in Section 4626, the official medical fee schedule shall not apply to medical-legal expenses as defined by Section 4620.

SEC. 6. The amendments made by this act are pursuant to recommendations made by the Temporary Advisory Committee on Medical-Legal Expenses created by Chapter 1150 of the Statutes of 1981. The committee also suggested that the administrative director consider conducting an examination into the incidence of physician "shopping" and over utilization of industrial medical-legal services and develop recommendations for the elimination of any improprieties. The committee further suggested that the Medical and Chiropractic Advisory Committee consider developing recommendations for prescribing the content of industrial medical-legal reports, criteria for evaluating the quality thereof, and recommend whether certification of industrial medical-legal evaluators is necessary or appropriate. The Legislature urges the Governor to support these studies through appropriate budgetary requests.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Recommendations made by the Temporary Advisory Committee on Medical-Legal Expenses created by Chapter 1150 of the Statutes of 1981, if implemented, could improve the quality and efficiency of the medical-legal delivery system in California. In order for these improvements to become a reality as soon as possible, it is necessary for this act to become effective immediately.

CHAPTER 597

An act to amend Section 50067 of the Health and Safety Code, relating to rental housing.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 50067 of the Health and Safety Code is amended to read:

50067. (a) "Elderly" means a family in which the head of the household is 60 years of age or older or a single person who is 60 years of age or older. The age may be adjusted by the agency or the department to facilitate participation in other municipal, state, or federal programs.

(b) "Elderly" or "elderly household" also means, for purposes of rental housing assisted pursuant to this division by the department or the agency, two or more persons, each of whom is 60 years of age or older and who live together under all of the following circumstances:

(1) The rental housing unit in which those persons reside does not have more than one bedroom.

(2) The combined incomes of those persons are in the income category of a family of the same size that would be eligible for assisted rental housing, as determined pursuant to this division.

(3) Those persons otherwise meet the requirements imposed pursuant to this division for the particular rental housing program for which they seek to qualify.

(4) The occupancy by those persons would not violate or be inconsistent with any state or federal law or regulation.

The department may promulgate regulations to establish minimum habitability standards for dwelling units assisted by the department for the purpose of assuring decent, safe, and sanitary rental housing subject to this subdivision, taking into account the special circumstances of shared housing.

CHAPTER 598

An act to amend Section 21104 of the Vehicle Code, relating to streets.

[Approved by Governor July 18, 1984 Filed with Secretary of State July 19, 1984]

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

SECTION 1. Section 21104 of the Vehicle Code is amended to read:

21104. No ordinance or resolution proposed to be enacted under Section 21101 or subdivision (d) of Section 21100 is effective as to any highway not under the exclusive jurisdiction of the local authority enacting the same, except that an ordinance or resolution which is submitted to the Department of Transportation by a local legislative body in complete draft form for approval prior to the enactment thereof is effective as to any state highway or part thereof specified in the written approval of the department. No such ordinance or resolution enacted under subdivision (c) of Section 21101 which applies to any state highway included in the national system of interstate and defense highways, shall subsequently be disapproved until such disapproval has been concurred in by a four-fifths vote of the California Transportation Commission except that no such ordinance or resolution enacted prior to January 1, 1969, under subdivision (c) of Section 21101 which applies to any state highway included in the national system of interstate and defense highways, shall subsequently be disapproved until such disapproval has been concurred in by both the local authority and by a four-fifths vote of the California Transportation Commission.

This section does not preclude the application of an ordinance or resolution adopted under Section 21101 or subdivision (d) of Section 21100 to streets maintained by a community services district organized pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

CHAPTER 599

An act to amend Sections 69510, 69511, 71000, and 72023.5 of, and to add Section 76061 to, the Education Code, relating to postsecondary education.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 69510 of the Education Code is amended to read:

69510. The Student Aid Commission shall be composed of the following 11 members:

(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.

(b) One representative from a California independent college or university.

(c) One representative each from the University of California, the California State University, and the California community colleges.

(d) Two members each of whom shall be a student enrolled in a California postsecondary educational institution at the time of appointment, and shall be enrolled in a California postsecondary educational institution for the duration of the term.

(e) Three public members.

(f) One representative from a California secondary school.

SEC. 2. Section 69511 of the Education Code is amended to read:

69511. (a) Each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have terms of two academic years.

(b) The members appointed pursuant to subdivisions (a) and (f) of Section 69510 shall be appointed effective January 1, 1976.

The members appointed pursuant to subdivision (d) of Section 69510 shall be appointed effective June 1, 1985, and June 1, 1986, respectively.

(c) At no time shall both student representatives be enrolled in the same segment of postsecondary education in California. For purposes of this subdivision, each postsecondary education program listed in subdivisions (a), (b), and (c) of Section 69510 is a segment of postsecondary education in California.

(d) Appointment to the commission shall be made by the Governor subject to confirmation by the Senate.

(e) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. The appointee shall hold office only for the balance of the unexpired term.

(f) Each member of the commission shall receive a stipend of fifty dollars ($50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission. In addition, each member shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.

(g) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of the program within a state by a state agency, the Student Aid Commission, as established by Section 69510, shall administer the act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under the act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

The commission shall constitute the state commission on federal

scholarships or grants and is hereby empowered to formulate a plan for development and administration of any such federal scholarship or grant program within the state.

Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

Before adopting a state plan, the Student Aid Commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

SEC. 3. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of all of the following:

(a) (1) Until such time as paragraph (2) becomes operative, 14 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

(2) Beginning with the date of the first appointment made pursuant to subdivision (c) and thereafter, 13 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

(b) One voting student who is enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of his or her term of appointment, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment and shall meet and maintain the minimum standards of scholarship prescribed for community college students. The student member shall be appointed by the Governor for a one-year term commencing on June 1. The first voting student member appointed to the board shall occupy the seat on the board that is made available after the next full-term vacancy that occurs after January 1, 1978. Thereafter, this seat shall be designated as the voting student member seat and shall in the future be filled by community college students pursuant to this section and Section 71003.

(c) One voting tenured faculty member from a community college, who shall be appointed by the Governor for a two-year term. The Governor shall appoint the faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. The first voting tenured faculty member appointed to the board shall occupy the seat on the board that is made available by the next full-term vacancy of a four-year term that exists after January 1, 1984. Thereafter, that seat shall be designated as the voting tenured faculty member seat and shall in the future be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.

The faculty member of the board appointed by the Governor

pursuant to this subdivision shall not participate on any subcommittee of the board responsible for collective bargaining negotiations.

SEC. 4. Section 72023.5 of the Education Code is amended to read:

72023.5. The governing board of each community college district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, one or more nonvoting students who are residents of the district. These students shall have the right to attend each and all meetings of the governing board, except that student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board.

The students selected to serve on the governing board, in addition to being residents of the district, shall be enrolled in a community college of the district and shall be chosen, and shall be recalled, by the students enrolled in the community colleges of the district in accordance with procedures prescribed by the governing board. A student member shall be required throughout the term of his or her appointment to be enrolled in a community college of the district for at least five semester units, or its equivalent, and shall meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district. The term of the student members shall be one year commencing on June 1 of each year.

The nonvoting student members appointed pursuant to this section shall be entitled to the mileage allowance prescribed by Section 72123 to the same extent as regular members, but are not entitled to the compensation prescribed by Section 72425.

A nonvoting student member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting student member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting student member shall not be liable for any acts of the governing board.

SEC. 5. Section 76061 is added to the Education Code, to read:

76061. A student who is elected to serve as an officer in the student government of a community college shall meet both of the following requirements:

(a) The student shall be enrolled in the community college at the time of election, and throughout his or her term, with a minimum of five semester units, or its equivalent.

(b) The student shall meet and maintain the minimum standards of scholarship prescribed for community college students by the community college district.

CHAPTER 600

An act to amend Sections 23301, 23301.5, and 23571 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 23301 of the Revenue and Taxation Code is amended to read:

23301. Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer, may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited if any of the following conditions occur:

(a) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 p.m. on the last day of the 12th month after the close of the income year; or

(b) If any tax, penalty or interest, or any portion thereof, due and payable upon notice and demand from the Franchise Tax Board, or due and payable under Section 25936, is not paid on or before 6 o'clock p.m. on the last day of the 11th month following the due date of said tax.

SEC. 2. Section 23301.5 of the Revenue and Taxation Code is amended to read:

23301.5. Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic corporation may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited if a taxpayer fails to file a return.

SEC. 3. Section 23571 of the Revenue and Taxation Code is amended to read:

23571. (a) Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended and shall not be exercised for any purpose or in any manner in this state:

(1) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the

close of the income year, is not paid on or before 6 o'clock p.m. of the last day of the 12th month after the close of the income year; or

(2) If any tax, penalty or interest, or any portion thereof, other than jeopardy or fraud assessments, due and payable upon notice and demand from the Franchise Tax Board, is not paid on or before 6 o'clock p.m. on the last day of the 11th month following the due date of said tax; or

(b) Any taxpayer which has been suspended under subdivision (a), may be revived in the manner provided for by Sections 23305 and 23305a.

CHAPTER 601

An act to amend Sections 70015.5 and 70016 of, and to add Article 10.1 (commencing with Section 69992) to Chapter 5 of Title 8 of, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Article 10.1 (commencing with Section 69992) is added to Chapter 5 of Title 8 of the Government Code, to read:

Article 10.1 Official Reporters in Counties with a Population of 750,000 to 1,070,000

69992. This article applies to counties containing a population of 750,000 and under 1,070,000 according to the 1970 federal census.

69992.1. (a) In addition to any fee otherwise required, in civil cases that last longer than one judicial day, a fee equal to one-half the full per diem rate for official reporters pro tempore shall be charged per one-half day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(b) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee equal to one-half the full per diem rate for official reporters pro tempore for each one-half day of service rendered by the second reporter, for the first and each successive day of trial or portion thereof.

(c) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the second and each succeeding day's court session.

(d) For the purpose of this section, "one-half day" means any period of judicial time during either the morning or afternoon court session.

69992.2. The fee required by Section 69992.1 shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. Such fee shall not be subject to the provisions of Section 6103 of the Government Code.

SEC. 2. Section 70015.5 of the Government Code is amended to read:

70015.5. (a) In addition to any fee otherwise required, in civil cases that last longer than one judicial day, a fee equal to one-half the full per diem rate for official reporters pro tempore shall be charged per one-half day of service to the parties, on a pro rata basis, for the full per diem rate for official reporters pro tempore shall be charged per one-half day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(b) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee equal to one-half the full per diem rate for official reporters pro tempore for each one-half day of service rendered by the second reporter, for the first and each successive day of trial or portion thereof.

(c) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the second and each succeeding day's court session.

(d) For the purpose of this section, "one-half day" means any period of judicial time during either the morning or afternoon court session.

SEC. 3. Section 70016 of the Government Code is amended to read:

70016. The fees required by Sections 70015 and 70015.5 shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. Such fee shall not be subject to the provisions of Section 6103 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is necessary that this act take effect immediately in order to provide sufficient funding for court reporter services in Santa Clara and Orange Counties.

CHAPTER 602

An act to add Chapter 3 (commencing with Section 2450) to Title 9 of Part 4 of Division 3 of the Civil Code, relating to powers of attorney.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Chapter 3 (commencing with Section 2450) is added to Title 9 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 3. STATUTORY SHORT FORM POWER OF ATTORNEY

Article 1. General Provisions

2450. The use of the following form in the creation of a power of attorney is lawful, and when used, the power of attorney shall be construed in accordance with the provisions of this chapter and, if the power of attorney is a durable power of attorney, shall be subject to the provisions of Article 3 (commencing with Section 2400) of Chapter 2:

STATUTORY SHORT FORM POWER OF ATTORNEY
(California Civil Code Section 2450)

WARNING. UNLESS YOU LIMIT THE POWER IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER TO ACT FOR YOU IN ANY WAY YOU COULD ACT FOR YOURSELF. FOR EXAMPLE, YOUR AGENT CAN:
---BUY, SELL, AND MANAGE REAL AND PERSONAL PROPERTY FOR YOU. THIS MEANS THAT YOUR AGENT CAN SELL YOUR HOME, YOUR SECURITIES, AND YOUR OTHER PROPERTY.
---DEPOSIT AND WITHDRAW MONEY FROM YOUR CHECKING AND SAVINGS ACCOUNTS.
---BORROW MONEY USING YOUR PROPERTY AS SECURITY FOR THE LOAN.
---PUT THINGS IN AND TAKE THINGS OUT OF YOUR SAFETY DEPOSIT BOX.
---OPERATE YOUR BUSINESS FOR YOU.
---PREPARE AND FILE TAX RETURNS FOR YOU AND ACT FOR YOU IN TAX MATTERS.
---ESTABLISH TRUSTS FOR YOU AND TAKE OTHER ACTIONS FOR YOU IN CONNECTION WITH PROBATE AND ESTATE PLANNING MATTERS.
---PROVIDE FOR THE SUPPORT AND WELFARE OF YOUR SPOUSE, CHILDREN, AND DEPENDENTS.
---CONTINUE PAYMENTS TO THE CHURCH AND OTHER ORGANIZATIONS OF WHICH YOU ARE A MEMBER AND MAKE GIFTS TO YOUR SPOUSE, DESCENDANTS, AND CHARITIES.

THIS DOCUMENT DOES NOT AUTHORIZE YOUR AGENT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU. YOU CAN DESIGNATE AN AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU ONLY BY A SEPARATE DOCUMENT.

IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A CALIFORNIA LAWYER BECAUSE THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN SECTIONS 2460 TO 2473, INCLUSIVE, OF THE CALIFORNIA CIVIL CODE.

THE POWERS GRANTED BY THIS DOCUMENT WILL EXIST FOR AN INDEFINITE PERIOD OF TIME UNLESS YOU LIMIT THEIR DURATION IN THIS DOCUMENT. THESE POWERS WILL CONTINUE TO EXIST NOTWITHSTANDING YOUR SUBSEQUENT DISABILITY OR INCAPACITY UNLESS YOU INDICATE OTHERWISE IN THIS DOCUMENT.

YOU CAN ELIMINATE POWERS OF YOUR AGENT BY CROSSING OUT ANY ONE OR MORE OF THE POWERS LISTED IN PARAGRAPH 3 OF THIS FORM. YOU CAN WRITE OTHER LIMITATIONS AND SPECIAL PROVISIONS IN PARAGRAPH 4 OF THIS FORM. HOWEVER, IF YOU DO NOT WANT TO GRANT YOUR AGENT THE POWER TO ACT FOR YOU IN ANY WAY YOU COULD ACT FOR YOURSELF, IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A LAWYER INSTEAD OF USING THIS FORM.

THIS DOCUMENT MUST BE SIGNED BY TWO WITNESSES AND BE NOTARIZED TO BE VALID.

YOU HAVE THE RIGHT TO REVOKE OR TERMINATE THIS POWER OF ATTORNEY.

YOU ARE NOT REQUIRED TO USE THIS FORM; YOU MAY USE A DIFFERENT POWER OF ATTORNEY IF THAT IS DESIRED BY THE PARTIES CONCERNED.

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF AGENT.

I, _____

(Insert your name and address)

do hereby appoint _____

_____

(Insert name and address of your agent, or each agent if you want to designate more than one)

as my attorney(s)-in-fact (agent) to act for me and in my name as authorized in this document.

2. CREATION OF DURABLE POWER OF ATTORNEY. By this document I intend to create a general power of attorney under Sections 2450 to 2473, inclusive, of the California Civil Code. Subject to any limitations in this document, this power of attorney is a durable power of attorney and shall not be affected by my subsequent incapacity.

(If you want this power of attorney to terminate automatically when you lack capacity, you must so state in paragraph 4 ("Special Provisions and Limitations") below.)

3. STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent(s) full power and authority to act for me and in my name, in any way which

I myself could act, if I were personally present and able to act, with respect to the following matters as each of them is defined in Chapter 3 (commencing with Section 2450) of Title 9 of Part 4 of Division 3 of the California Civil Code to the extent that I am permitted by law to act through an agent:

(1) Real estate transactions.
(2) Tangible personal property transactions.
(3) Bond, share, and commodity transactions.
(4) Financial institution transactions.
(5) Business operating transactions.
(6) Insurance transactions.
(7) Retirement plan transactions.
(8) Estate transactions.
(9) Claims and litigation.
(10) Tax matters.
(11) Personal relationships and affairs.
(12) Benefits from military service.
(13) Records, reports, and statements.
(14) Full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) shall select.
(15) All other matters.

(Strike out any one or more of the items above to which you do NOT desire to give your agent authority. Such elimination of any one or more of items (1) to (14), inclusive, automatically constitutes an elimination of item (15). TO STRIKE OUT AN ITEM, YOU MUST DRAW A LINE THROUGH THE TEXT OF THAT ITEM.)

4. SPECIAL PROVISIONS AND LIMITATIONS. In exercising the authority under this power of attorney, my agent(s) is subject to the following special provisions and limitations:

_____
_____
_____
_____
_____
_____

(Special provisions and limitations may be included in the statutory short form power of attorney only if they conform to the requirements of Section 2455 of the California Civil Code.)

5. EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED. If I have designated more than one agent, the agents are to act

_____ .

(If you designate more than one agent and wish each agent alone to be able to exercise this power, insert in this blank the word "severally." Failure to make an insertion or the insertion of the word "jointly" will require that the agents act jointly.)

6. DURATION.

(The powers granted by this document will exist for an indefinite period of time unless you limit their duration below.)

This power of attorney expires on _____

_____

(Fill in this space ONLY if you want the authority of your agent to terminate

before your death.)

7. NOMINATION OF CONSERVATOR OF ESTATE.

(A conservator of the estate may be appointed for you if a court decides that one should be appointed. The conservator is responsible for the management of your financial affairs and your property. You are not required to nominate a conservator but you may do so. The court will appoint the person you nominate unless that would be contrary to your best interests. You may, but are not required to, nominate as your conservator the same person you named in paragraph 1 as your agent. You may nominate a person as your conservator by completing the space below.)

If a conservator of the estate is to be appointed for me, I nominate the following person to serve as conservator of the estate _____

_____

(Insert name and address of person nominated as conservator of the estate)

DATE AND SIGNATURE OF PRINCIPAL

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Statutory Short Form Power of Attorney on _____ at _____, _____.

(Date) (City) (State)

_____

(You sign here)

(THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS BOTH (1) SIGNED BY TWO ADULT WITNESSES WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE AND (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC IN CALIFORNIA.)

STATEMENT OF WITNESSES

I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this power of attorney in my presence, and that the principal appears to be of sound mind and under no duress, fraud, or undue influence.

Signature: _____ Residence Address: _____
Print Name: _____
Date: _____

Signature: _____ Residence Address: _____
Print Name: _____
Date: _____

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

State of California } ss.
County of _____ }

On this _____ day of _____, in the year _____, before me, _____ ,
(Insert name of notary public)
personally appeared _____ ,
(Insert name of principal)
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

NOTARY SEAL

_____
(Signature of Notary Public)

2451. (a) Notwithstanding Section 2400, except as provided in subdivision (b), a statutory short form power of attorney, to be valid, shall contain, in not less than 10-point bold-face type or a reasonable equivalent thereof, the warning which is printed in capital letters at the beginning of Section 2450.

(b) Subdivision (a) does not apply if the statutory short form power of attorney contains a certificate signed by the principal's lawyer stating in substance: "I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time when this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

2452. A statutory short form power of attorney is valid only if all the following requirements are satisfied:

(1) It is signed by the principal.

(2) It is signed by two adult witnesses, each of whom executes, under penalty of perjury, the declaration in the form set forth in Section 2450.

(3) It is acknowledged by the principal before a notary public at any place within this state, and the notary public executes the certificate in the form set forth in Section 2450.

2453. If more than one agent is designated by the principal in a statutory short form power of attorney, the agents in exercising the powers conferred shall act jointly unless the principal specifically provides in the statutory short form power of attorney that they are to act severally.

2454. (a) Subject to subdivisions (b) and (c), a power of attorney is a "statutory short form power of attorney," as this phrase is used in this chapter, if it meets both of the following requirements:

(1) It meets the requirements of Sections 2451 and 2452.

(2) It contains the exact wording of paragraph 3 of the form set forth in Section 2450

(b) One or more of items (1) to (14), inclusive, may be stricken out by the principal in paragraph 3 of the form set forth in Section 2450, in which case the items so stricken out and also item (15) shall be deemed eliminated.

(c) A statutory short form power of attorney may contain modifications or additions of the types described in Section 2455.

2455. A power of attorney which satisfies the requirements of Section 2454 is not prevented from being a "statutory short form power of attorney," as this phrase is used in this chapter, by the fact that it also contains additional language which does any one or more of the following:

(a) Eliminates from the power of attorney one or more of the powers enumerated in one or more of the constructional sections of this chapter with respect to an item in paragraph 3 of the statutory short form power of attorney not eliminated by the principal.

(b) Supplements one or more of the powers enumerated in one or more of the constructional sections in this chapter with respect to an item in paragraph 3 of the statutory short form power of attorney not eliminated by the principal, by specifically listing additional powers of the agent.

(c) Makes the power of attorney not a durable power of attorney or limits the duration of the power of attorney or prescribes when the power of attorney becomes effective.

(d) Makes some additional provision which is not inconsistent with the other provisions of the statutory short form power of attorney.

2456. Nothing in this chapter affects or limits the use of any other form for a power of attorney. Any form that complies with the requirements of any law other than the provisions of this chapter may be used in lieu of the form set forth in Section 2450.

Article 2. Construction of Grants of General Authority With Respect to Particular Matters

2460. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "real estate transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Accept as a gift or as security for a loan, reject, demand, buy, lease, receive, or otherwise acquire, either ownership or possession of any interest in real property.

(2) Sell, exchange, convey with or without covenants, quit-claim, release, surrender, mortgage, encumber, partition or consent to the partitioning of, grant options concerning, lease, sublet, or otherwise dispose of, any interest in real property.

(3) Change the form of title of any interest in real property.

(4) Create, modify, or revoke a trust concerning any interest in real property.

(5) Release in whole or in part, assign the whole or a part of, satisfy in whole or in part, or enforce by action, proceeding, or otherwise, any mortgage, encumbrance, lien, or other claim which exists, or is claimed to exist, in favor of the principal with respect to any interest in real property.

(6) Do any act of management or conservation with respect to any interest in real property owned or claimed to be owned by the principal, including by way of illustration, but not of restriction, the power to do the following:

(A) Insure against any casualty, liability, or loss.

(B) Eject, remove, or relieve tenants and other persons from the property, or obtain or regain possession of, or protect the interest in the property, by action, proceeding, or otherwise.

(C) Pay, compromise, or contest taxes or assessments, and apply for refunds in connection therewith.

(D) Purchase supplies.

(E) Hire assistance or labor.

(F) Make repairs or alterations in the real property or structures or other improvements on it.

(7) Maintain, protect, preserve, utilize in any way, subdivide, develop, modify, alter, replace, remove, demolish, erect, or install structures or other improvements upon, any real property in which the principal has, or claims to have, any interest.

(8) Develop or dedicate real property in which the principal has, or claims to have, any interest to public use and dedicate easements to public use, with or without consideration.

(9) Demand, receive, and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled as the proceeds of an interest in real property or of one or more of the transactions enumerated in this section; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(10) Participate in any reorganization with respect to real property and receive and hold any shares of stock or instrument of similar character received in accordance with the plan of reorganization, and act with respect to them, including by way of illustration, but not of restriction, the power to sell or otherwise dispose of the shares, or any of them; exercise or sell any option, conversion, or similar right with respect to them; and vote on

them in person or by the granting of a proxy.

(11) Agree and contract, in any manner, with any person, and on any terms, which the agent may select, for the accomplishment of any of the purposes enumerated in this section; and perform, rescind, reform, release, or modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal.

(12) Execute, acknowledge, seal, and deliver any deed, revocation, declaration, or modification of trust, mortgage, lease, notice, check, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(13) Prosecute, defend, submit to arbitration, settle, or propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any real property transaction or intervene in any action or proceeding relating to it.

(14) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(15) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent with respect to any interest in real property.

(b) All powers described in this section are exercisable equally with respect to any interest in real property owned by the principal at the time of the giving of the power of attorney or thereafter acquired, whether located in this state or elsewhere.

2461. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "tangible personal property transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Accept as a gift or as security for a loan, reject, demand, buy, lease, receive, or otherwise acquire, either ownership or possession of any interest in tangible personal property.

(2) Sell, exchange, convey with or without covenants, release, surrender, mortgage, encumber, pledge, hypothecate, create a security interest in, pawn, partition or consent to the partitioning of, grant options concerning, lease, sublet, or otherwise dispose of, any interest in tangible personal property.

(3) Change the form of title to any interest in tangible personal property.

(4) Create, modify, or revoke a trust concerning any interest in tangible personal property.

(5) Release in whole or in part, assign the whole or a part of, satisfy in whole or in part, or enforce by action, proceeding, or otherwise, any mortgage, encumbrance, lien, or other claim which exists, or is claimed to exist, in favor of the principal with respect

to any interest in tangible personal property.

(6) Do any act of management or conservation with respect to any interest in tangible personal property owned or claimed to be owned by the principal, including by way of illustration, but not of restriction, the power to do the following:

(A) Insure against any casualty, liability, or loss.

(B) Obtain or regain possession of, or protect the interest in the property, by action, proceeding, or otherwise.

(C) Pay, compromise, or contest taxes or assessments, and apply for refunds in connection therewith.

(D) Hire assistance or labor.

(E) Move from place to place, store for hire or on a gratuitous bailment, use, alter, or make repairs or alterations of, the property.

(7) Demand, receive, and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled as the proceeds of an interest in tangible personal property or of one or more of the transactions enumerated in this section; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(8) Agree and contract, in any manner, with any person, and on any terms, which the agent may select, for the accomplishment of any of the purposes enumerated in this section; and perform, rescind, reform, release, or modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal.

(9) Execute, acknowledge, seal, and deliver any conveyance, revocation, declaration, or modification of trust, mortgage, lease, notice, check, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(10) Prosecute, defend, submit to arbitration, settle, or propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any tangible personal property transaction or intervene in any action or proceeding relating to it.

(11) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(12) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent with respect to any interest in tangible personal property.

(b) All powers described in this section are exercisable equally

with respect to any interest in any tangible personal property owned by the principal at the time of the giving of the power of attorney or thereafter acquired, whether located in this state or elsewhere.

2462. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "bond, share, and commodity transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Accept as a gift or as security for a loan, reject, demand, buy, receive, or otherwise to acquire ownership or possession of, any bond, share, or other instrument of similar character, commodity interest, or any instrument with respect to a commodity, together with the interest, dividends, proceeds, or other distributions connected with it.

(2) Sell (including short sales), exchange, transfer with or without a guaranty, release, surrender, hypothecate, pledge, grant options concerning, loan, trade in, or otherwise dispose of any bond, share, or other instrument of similar character, commodity interest, or any instrument with respect to a commodity.

(3) Create, modify, or revoke a trust concerning any bond, share, or other instrument of similar character, commodity interest, or any instrument with respect to a commodity.

(4) Release in whole or in part, assign the whole or a part of, satisfy in whole or in part, or enforce by action, proceeding, or otherwise, any pledge, encumbrance, lien, or other claim as to any bond, share, or other instrument of similar character, commodity interest, or any interest with respect to a commodity, when the pledge, encumbrance, lien, or other claim is owned, or claimed to be owned, by the principal.

(5) Do any act of management or conservation with respect to any bond, share, or other instrument of similar character, commodity interest, or any instrument with respect to a commodity, owned or claimed to be owned by the principal or in which the principal has or claims to have an interest, including by way of illustration, but not of restriction, the power to do the following:

(A) Insure against any casualty, liability, or loss.

(B) Obtain or regain possession of, or protect the interest in it by action, proceeding, or otherwise.

(C) Pay, compromise, or contest taxes or assessments, and apply for refunds in connection therewith.

(D) Consent to and participate in any reorganization, recapitalization, liquidation, merger, consolidation, sale, or lease, or other change in or revival of a corporation or other association, or in the financial structure of any corporation or other association, or in the priorities, voting rights, or other special rights with respect to it.

(E) Become a depositor with any protective, reorganization, or similar committee of the bond, share, or other instrument of

similar character, commodity interest, or any instrument with respect to a commodity.

(F) Make any payments reasonably incident to subparagraphs (A) to (E), inclusive.

(G) Exercise or sell any option, conversion, or similar right.

(H) Vote in person or by the granting of a proxy, with or without the power of substitution, either discretionary, general, or otherwise, for the accomplishment of any of the purposes enumerated in this section.

(6) Carry in the name of a nominee selected by the agent any evidence of the ownership of any bond, share, or other instrument of similar character, commodity interest, or instrument with respect to a commodity.

(7) Employ, in any way believed desirable by the agent, any bond, share, or other instrument of similar character, commodity interest, or any instrument with respect to a commodity, in which the principal has or claims to have any interest, for the protection or continued operation of any speculative or margin transaction personally begun or personally guaranteed, in whole or in part, by the principal.

(8) Demand, receive, and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled as the proceeds of any interest in a bond, share, or other instrument of similar character, commodity interest, or any instrument with respect to a commodity or of one or more of the transactions enumerated in this section; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(9) Agree and contract, in any manner, with any broker or other person, and on any terms, which the agent may select, for the accomplishment of any of the purposes enumerated in this section; and perform, rescind, reform, release, or modify any such agreement or contract or any other similar agreement made by or on behalf of the principal.

(10) Execute, acknowledge, seal, and deliver any consent, authorization, assignment, revocation, declaration, or modification of trust, notice, waiver of notice, check, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(11) Execute, acknowledge, and file any report or certificate required by law or governmental regulation.

(12) Prosecute, defend, submit to arbitration, settle, or propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any bond, share, or commodity transaction or intervene in any action or proceeding relating to it.

(13) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(14) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent with respect to any interest in any bond, share, or other instrument of similar character, commodity, or instrument with respect to a commodity.

(b) All powers described in this section are exercisable equally with respect to any interest in any bond, share, or other instrument of similar character, commodity, or instrument with respect to a commodity, owned by the principal at the time of the giving of the power of attorney or thereafter acquired, whether located in this state or elsewhere.

2463. (a) In a statutory short form power of attorney, the language conferring general authority with respect to " financial institution transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Continue, modify, and terminate any account (including a deposit account, security account, certificate of deposit, money market account, margin account, common trust fund, mutual fund, treasury bill or note, and any other type of cash fund, cash equivalent, or security) or other financial arrangement made by or on behalf of the principal before the creation of the agency.

(2) Open either in the name of the agent alone, or in the name of the principal alone, or in both their names jointly, or otherwise, an account of any type in any financial institution selected by the agent; and make any contracts for the procuring of other services made available by any financial institution the agent believes desirable.

(3) Make, sign, and deliver checks or drafts for any purpose; and withdraw by check, order, or otherwise any funds or property of the principal deposited with, or left in the custody of, any financial institution, wherever located, either before or after the creation of the agency.

(4) Prepare from time to time financial statements concerning the assets and liabilities or income and expenses of the principal and deliver statements so prepared to any financial institution or other person the agent believes is reasonably entitled to them.

(5) Receive statements, vouchers, notices, or other documents from any financial institution, and act with respect to them.

(6) Enter, establish, close, maintain, and have access to any safe deposit box held in the name of the principal alone or jointly with another person, whether or not the institution renting the box has its own form of power of attorney for those purposes, and remove all or any of the contents of the box.

(7) Borrow money by overdraft or by promissory note of the

principal given for such period and at such interest rate as the agent shall select; give such security out of the assets of the principal as the agent believes desirable or necessary for the borrowing; pay, renew, or extend the time of payment of any note so given or given by or on behalf of the principal; and procure for the principal a loan from any financial institution by any other procedure made available by the financial institution.

(8) Make, assign, endorse, discount, guarantee, and negotiate, for any and all purposes, all promissory notes, bills of exchange, checks, drafts, or other negotiable or nonnegotiable paper of the principal or payable to the principal or to the order of the principal; receive the cash or other proceeds of any of those transactions; and accept any bill of exchange or draft drawn by any person upon the principal and pay it when due.

(9) Receive for the principal and deal in and deal with any trust receipt, warehouse receipt, or other negotiable or nonnegotiable instrument in which the principal has or claims to have an interest.

(10) Apply for and receive letters of credit or travelers checks from any financial institution selected by the agent, giving such indemnity or other agreements in that connection as the agent believes desirable or necessary.

(11) Consent to an extension in time of payment with respect to any commercial paper or any financial institution transaction in which the principal has an interest or by which the principal is or might be affected in any way.

(12) Pay, compromise, or contest taxes or assessments, and apply for refunds in connection therewith.

(13) Demand, receive, and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled as the proceeds of any financial transaction conducted by the principal, or by the agent in the execution of any of the powers described in this section, or partly by the principal and partly by the agent so acting; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(14) Execute, acknowledge, seal, and deliver any instrument of any kind, in the name of the principal or otherwise, which the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(15) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any financial institution transaction or intervene in any action or proceeding relating thereto.

(16) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent

believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(17) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent in connection with any financial institution transaction which does or might in any way affect the financial or other interests of the principal.

(b) All powers described in this section are exercisable equally with respect to any financial transaction engaged in by the principal at the time of the giving of the power of attorney or thereafter engaged in, whether conducted in this state or elsewhere.

(c) For the purposes of this section, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, commercial banks, building and loan associations, savings and loan companies or associations, credit unions, and industrial loan companies.

2464. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "business operating transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) To the extent that an agent is permitted by law thus to act for a principal:

(A) Discharge and perform any duty or liability and also exercise any right, power, privilege, or option which the principal has or claims to have under any contract of partnership whether the principal is a general, special, or limited partner.

(B) Enforce the terms of any partnership agreement for the protection of the principal, by action, proceeding, or otherwise, as the agent believes desirable or necessary.

(C) Defend, submit to arbitration, settle, or compromise any action or other legal proceeding to which the principal is a party because of membership in the partnership.

(2) Exercise in person or by proxy or enforce by action, proceeding, or otherwise, any right, power, privilege, or option which the principal has as the holder of any bond, share, or other instrument of similar character, and defend, submit to arbitration, settle, or compromise any action or other legal proceeding to which the principal is a party because of that bond, share, or other instrument of similar character.

(3) With respect to any business which is owned solely by the principal, do all of the following:

(A) Continue, modify, renegotiate, extend, and terminate any contractual arrangements made with any person, firm, association, or corporation by or on behalf of the principal with respect to the business before the creation of the agency.

(B) Determine the policy of the business as to (i) the location

of the site or sites to be utilized for its operation, (ii) the nature and extent of the business to be undertaken, (iii) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising to be employed in its operation, (iv) the amount and types of insurance to be carried, (v) the mode of securing, compensating, and dealing with accountants, attorneys, and other agents and employees required for its operation; agree and contract, in any manner, with any person, and on any terms, which the agent believes desirable or necessary for effectuating these decisions of the agent as to policy; and perform, rescind, reform, release, or modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal.

(C) Change the name or form of organization under which the business is operated, and enter into such partnership agreement with other persons or organize such corporation to take over the operation of the business, or any part thereof, as the agent believes desirable or necessary.

(D) Demand and receive all moneys which are or may become due to the principal, or which may be claimed by the principal or on behalf of the principal, in the operation of the business; control and disburse the funds in the operation of the business in any way which the agent believes desirable or necessary; and engage in any financial institution transactions (as described in Section 2463) the agent believes desirable or necessary for effectuating the execution of any of the powers of the agent described in this subdivision.

(4) Put additional capital into any business in which the principal has an interest; join in any plan of reorganization, consolidation, or merger of that business; sell or liquidate the business at such time and upon such terms as the agent believes desirable; and represent the principal in establishing the value of any business under any buy-out agreement to which the principal is a party.

(5) Prepare, sign, file, and deliver all reports, compilations of information, returns, or other papers with respect to any business operations of the principal, which are required by any governmental agency, department, or instrumentality or which the agent believes desirable or necessary for any purpose, and make any payments with respect to them.

(6) Pay, compromise, or contest taxes or assessments and do any act the agent believes desirable or necessary to protect the principal from illegal or unnecessary taxation, fines, penalties, or assessments in connection with business operations of the principal, including the power to attempt to recover, in any manner permitted by law, sums paid before or after the creation of the agency as taxes, fines, penalties, or assessments.

(7) Demand, receive, and obtain by action, proceeding, or otherwise, any money or other thing of value to which the

principal is, may become, or may claim to be entitled as the proceeds of any business operation of the principal; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(8) Execute, acknowledge, seal, and deliver any deed, assignment, mortgage, lease, notice, consent, agreement, authorization, check, or other instrument which the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(9) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any business operation or intervene in any action or proceeding relating thereto.

(10) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(11) In general, and in addition to all the specific acts enumerated in this section, do any other act in connection with any business operated by the principal, which the principal can do through an agent, that the agent believes desirable or necessary for the furtherance or protection of the interests of the principal.

(b) All powers described in this section are exercisable equally with respect to any business in which the principal is interested at the time of the creation of the agency or in which the principal thereafter becomes interested, whether operated in this state or elsewhere.

2465. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "insurance transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Continue, pay the premium or assessment on, modify, rescind, release, or terminate any contract of life, accident, health, disability, or liability insurance, or any combination of that insurance, procured by or on behalf of the principal before the creation of the agency which insures either the principal or any other person, without regard to whether the principal is or is not a beneficiary of it.

(2) Procure new, different, or additional contracts of insurance on the life of the principal or on the life of anyone in whom the principal has an insurable interest or for protecting the principal with respect to ill-health, disability, accident, or liability of any sort; select the amount, the type of insurance contract, and the mode of payment under each policy; pay the premium or

assessment on, modify, rescind, release, or terminate, any contract so procured by the agent; and designate the beneficiary of any of those contracts of insurance, except that the agent himself or herself shall not be the beneficiary unless the agent is a spouse, child, grandchild, parent, brother, or sister of the principal.

(3) Apply for and receive any available loan on the security of the contract of insurance, whether for the payment of a premium or for the procuring of cash, or surrender and receive the cash surrender value of it, or exercise any election as to beneficiary or mode of payment, or change the manner of paying premiums, or change or convert the type of insurance contract, with respect to any contract of life, accident, health, disability, or liability insurance as to which the principal has, or claims to have, any one or more of the powers described in this section; and change the beneficiary of any of those contracts of insurance or of annuity contracts in which the principal has an interest, except that the agent himself or herself shall not be the new beneficiary unless the agent is a spouse, child, grandchild, parent, brother, or sister of the principal.

(4) Demand, receive, and obtain by action, proceeding, or otherwise, any money, dividend, or other thing of value to which the principal is, may become, or may claim to be entitled as the proceeds of any contract of insurance or any transaction enumerated in this section; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(5) Apply for and procure any available governmental aid in the guaranteeing or paying of premiums of any contract of insurance on the life of the principal.

(6) Sell, assign, hypothecate, borrow upon, or pledge the interest of the principal in any contract of insurance.

(7) Pay from those proceeds or otherwise, compromise, contest, or apply for refunds in connection with, any tax or assessment levied by a taxing authority with respect to any contract of insurance or the proceeds thereof or liability accruing by reason of the tax or assessment.

(8) Agree and contract, in any manner, with any person, and on any terms, which the agent may select, for the accomplishment of any of the purposes enumerated in this section; and perform, rescind, reform, release, or modify any of those agreements or contracts.

(9) Execute, acknowledge, seal, and deliver any consent, demand, request, application, agreement, indemnity, authorization, assignment, pledge, notice, check, receipt, waiver, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(10) Continue, procure, pay the premium or assessment on, modify, rescind, release, terminate, or otherwise deal with any contract of insurance, other than those enumerated in paragraph (1) or (2), whether fire, marine, burglary, compensation, disability, liability, hurricane, earthquake, casualty, or other type, or any combination of insurance; and do any act with respect to any of those contracts or with respect to their proceeds or enforcement which the agent believes desirable or necessary for the promotion or protection of the interests of the principal.

(11) Prosecute, defend, submit to arbitration, settle, adjust, and propose or accept a compromise, with respect to any claim existing in favor of or against the principal based on or involving any insurance transaction or intervene in any action or proceeding relating thereto.

(12) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(13) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent in connection with procuring, supervising, managing, modifying, enforcing, and terminating contracts of insurance in which the principal is the insured or is otherwise interested.

(b) All powers described in this section are exercisable with respect to any contract of insurance in which the principal is in any way interested, whether made in this state or elsewhere.

2466. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "retirement plan transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Select various payment options under any retirement plan in which the principal participates, including plans for self-employed individuals, except that the agent himself or herself shall not be the beneficiary unless the agent is a spouse, child, grandchild, parent, brother, or sister of the principal.

(2) Make beneficiary designations under those plans and change any existing beneficiary designations, except that the agent himself or herself shall not be the beneficiary unless the agent is a spouse, child, grandchild, parent, brother, or sister of the principal.

(3) Make voluntary contributions to those plans.

(4) Make "rollovers" of plan benefits into other retirement plans.

(5) Borrow from those plans if authorized by the plan, and sell assets to or purchase assets from the plan if authorized by the plan.

(6) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal

can do through an agent with respect to retirement plans in which the principal is interested.

(b) All powers described in this section are exercisable with respect to any retirement plan in which the principal is in any way interested, whether the plan is in this state or elsewhere.

2467. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "estate transactions" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) To the extent that an agent is permitted by law thus to act for a principal, apply for and procure, in the name of the principal, letters of administration, letters testamentary, letters of trusteeship, or any other type of authority, either judicial or administrative, and act as a fiduciary of any sort.

(2) To the extent that an agent is permitted by law thus to act for a principal, represent and act for the principal in all ways and in all matters affecting any estate of a decedent, absentee, minor, or incompetent, or any trust or other fund, out of which the principal is entitled, or claims to be entitled, to some share or payment or with respect to which the principal is a fiduciary.

(3) Accept, reject, receive, receipt for, sell, assign, release, disclaim, renounce, pledge, exchange, or consent to a reduction in or modification of, any share in or payment from any estate, trust, or other fund, with or without consideration.

(4) Demand and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled by reason of the death testate or intestate of any person or of any testamentary disposition or of any trust or by reason of the administration of the estate of a decedent or absentee or of the guardianship of a minor or the conservatorship of an incompetent or the administration of any trust or other fund; initiate, participate in, or oppose any proceeding, judicial or otherwise, for the ascertainment of the meaning, validity, or effect of any deed, will, declaration of trust, or other transaction affecting in any way the interest of the principal; initiate, participate in, or oppose any proceeding, judicial or otherwise, for the removal, substitution, or surcharge of a fiduciary; and conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(5) Establish any trust with the assets of the principal for the benefit of the principal and the spouse and descendants of the principal, or any one or more of them, upon such terms as the agent determines are necessary or proper; transfer any asset in which the principal has an interest to any such trust or to any trust that the principal has created; and exercise in whole or in part, release, or let lapse any power the principal may have under any

trust whether or not created by the principal, including any power of appointment, revocation, or withdrawal.

(6) Purchase for the principal United States treasury bonds redeemable at par value in payment of federal estate taxes; borrow money from any source for that purpose; make, execute, endorse, and deliver promissory notes, bills of exchange, drafts, agreements, or other obligations for those bonds, and as security for them pledge, mortgage, and assign any stock, bonds, securities, insurance values, or other properties, real or personal, in which the principal may have an interest; and arrange for the safekeeping and custody of any of those treasury bonds.

(7) Prepare, sign, file, and deliver all reports, compilations of information, returns, or papers with respect to any interest had or claimed by or on behalf of the principal in any estate, trust, or other fund; and pay, compromise, or contest, and apply for refunds in connection with any tax or assessment with respect to (A) any interest had or claimed by or on behalf of the principal in any estate, trust, or other fund or by reason of the death of any person or (B) any property in which that interest is had or claimed.

(8) Agree and contract, in any manner, with any person, and on any terms, which the agent may select, for the accomplishment of the purposes enumerated in this section; and perform, rescind, reform, release, or modify any such agreement or contract or any other similar agreement or contract made by or on behalf of the principal.

(9) Execute, acknowledge, verify, seal, file, and deliver any consent, designation, pleading, notice, demand, election, conveyance, release, disclaimer, assignment, check, pledge, waiver, admission of service, notice of appearance, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(10) Submit to arbitration, settle, and propose or accept a compromise with respect to, any controversy or claim which affects the estate of a decedent, absentee, minor, or incompetent, or the administration of a trust or other fund, in which the principal has or claims to have an interest; and do any act which the agent believes desirable or necessary in effectuating the compromise.

(11) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(12) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent with respect to the estate of a decedent, absentee, minor, or incompetent, or the administration of a trust or other fund, in any one of which the principal has or claims to have an interest or with respect to which the principal is a

fiduciary.

(b) All powers described in this section are exercisable equally with respect to any estate of a decedent, absentee, minor, or incompetent, or the administration of any trust or other fund, in which the principal is interested at the time of the giving of the power of attorney or may thereafter become interested, whether located in this state or elsewhere.

2468. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "claims and litigation" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Assert and prosecute before any court, administrative board, department, commissioner, or other tribunal, any cause of action, claim, counterclaim, cross-complaint, offset, or defense, which the principal has, or claims to have, against any individual, partnership, association, corporation, government, or other person or instrumentality, including by way of illustration, and not of restriction, the power to sue for the recovery of real property or of any other thing of value, for the recovery of damages sustained by the principal in any manner, for the elimination or modification of tax liability, for an injunction, for specific performance, or for any other relief.

(2) Bring an action of interpleader or other action to determine adverse claims; intervene or interplead in any action or proceeding; and act in any litigation as amicus curiae.

(3) In connection with any action or proceeding or controversy, at law or otherwise, apply for and, if possible, procure a libel, an attachment, a garnishment, or other preliminary, provisional, or intermediate relief, and resort to and utilize in all ways permitted by law any available procedure for the effectuation, enforcement, or satisfaction of the judgment, order, or decree obtained.

(4) In connection with any action or proceeding, perform any act that the principal might perform, including by way of illustration, but not of restriction, acceptance of tender, offer of judgment, admission of facts, submission of any controversy on an agreed statement of facts, consent to examination before trial; and generally bind the principal in the conduct of any litigation or controversy as seems desirable to the agent.

(5) Submit to arbitration, settle, and propose or accept a compromise with respect to, any claim existing in favor of or against the principal, or any litigation to which the principal is, may become, or may be designated a party.

(6) Waive the issuance and service of a summons, citation, or other process upon the principal; accept service of process; appear for the principal; designate persons upon whom process directed to the principal may be served; execute and file or deliver stipulations on the principal's behalf; verify pleadings; appeal to appellate tribunals; procure and give surety and indemnity bonds

at such times and to such extent as the agent believes desirable or necessary; contract and pay for the preparation and printing of records and briefs; and receive, execute, and file or deliver any consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument which the agent believes desirable or necessary in connection with the prosecution, settlement, or defense of any claim by or against the principal or of any litigation to which the principal is, may become, or may be designated a party.

(7) Appear for, represent, and act for the principal with respect to bankruptcy or insolvency proceedings, whether voluntary or involuntary, whether of the principal or of some other person, or with respect to any reorganization proceeding, or with respect to any assignment for the benefit of creditors, receivership, or application for the appointment of a receiver or trustee, which in any way affects any interest of the principal in any real or personal property, bond, share, commodity interest, chose in action, or other thing of value.

(8) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section.

(9) Pay, from funds in the agent's control or for the account of the principal, any judgment against the principal or any settlement which may be made in connection with any transaction enumerated in this section; receive and conserve moneys or other things of value paid in settlement of or as proceeds of any transaction enumerated in this section; and receive, endorse, and deposit checks.

(10) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent in connection with any claim by or against the principal or with litigation to which the principal is, may become, or may be designated a party.

(b) All powers described in this section are exercisable equally with respect to any claim or litigation existing at the time of the giving of the power of attorney or thereafter arising, whether arising in this state or elsewhere.

2469. In a statutory short form power of attorney, the language conferring general authority with respect to "tax matters" shall be construed to mean that the principal authorizes the agent to do all of the following:

(a) Prepare, sign, and file federal, state, local, and foreign income, gift, or other tax returns of all kinds, FICA returns, payroll tax returns, claims for refunds, requests for extension of time, petitions to the tax court or other courts regarding tax matters, and any other tax related documents, including without limitation receipts, offers, waivers, consents (including, but not limited to, consents and agreements under Internal Revenue Code Section

2032A or any successor section), closing agreements, and any power of attorney form required by the Internal Revenue Service, the California Franchise Tax Board, or any other taxing authority with respect to any tax year between the year of the giving of the power of attorney and the year ending 25 years thereafter.

(b) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service, the California Franchise Tax Board, or other taxing authority.

(c) Exercise any elections the principal may have under federal, state, local, or foreign tax law.

(d) In general, and in addition to all the specific acts enumerated in this section, do any other act, which the principal can do through an agent, to represent the principal in all tax matters and proceedings of all kinds and for all periods before all officers of the Internal Revenue Service, the California Franchise Tax Board, and any other taxing authority, whether in this state or elsewhere.

2470. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "personal relationships and affairs" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Do all acts necessary for maintaining the customary standard of living of the spouse and children and other dependents of the principal, including by way of illustration, but not of restriction, the power to do the following:

(A) Provide living quarters (i) by purchase, lease, or other contract or (ii) by payment of the operating costs, including interest, amortization payments, insurance, repairs, and taxes, of premises owned by the principal and occupied by the family or dependents of the principal.

(B) Provide normal domestic help for the operation of the household.

(C) Provide usual vacations and usual travel expenses.

(D) Provide for education, including education at vocational and trade schools, training in music, stage, handicrafts, arts, and sports, special training provided at institutions for the mentally or physically handicapped, undergraduate and graduate study in any field at public or private universities, colleges, or other institutions of higher learning, and, in providing for that education, pay for tuition, books, and incidental charges made by the educational institutions, travel costs to and from those institutions, room and board, and a reasonable amount of spending money.

(E) Provide funds for all the current living costs of the spouse, children, and other dependents of the principal, including, among other things, shelter, clothing, food, and incidentals.

(2) Provide, whenever necessary, medical, dental, and psychiatric care, hospitalization, and custodial care for the spouse, children, and other dependents of the principal.

(3) Continue whatever provision has been made by the principal, before or after the creation of the agency, for the spouse, children, and other dependents of the principal, with respect to automobiles or other means of transportation, including by way of illustration, but not of restriction, the power to license, insure, and replace any automobiles owned by the principal and customarily used by the spouse, children, or other dependents of the principal.

(4) Continue whatever charge accounts have been operated by the principal, before or after the creation of the agency, for the convenience of the spouse, children, or other dependents of the principal; open those new charge accounts which the agent believes desirable for the accomplishment of any of the purposes enumerated in this section; and pay the items charged on the accounts by any person authorized or permitted by the principal, before the creation of the agency, to make charges.

(5) Continue the discharge of any services or duties assumed by the principal, before or after the creation of the agency, to any parent, relative, or friend of the principal.

(6) Supervise, enforce, defend, or settle any claim by or against the principal arising out of property damages or personal injuries suffered by or caused by the principal or arising under such circumstances that the loss resulting therefrom will or may fall on the principal.

(7) Continue payments incidental to the membership or affiliation of the principal in any church, club, society, order, or other organization and continue contributions to it.

(8) Make gifts, grants, or other transfers without consideration to or for the benefit of the spouse or descendants of the principal or a charitable institution, or more than one or all of them, either outright or in trust, including the forgiveness of indebtedness and the completion of any charitable pledges the principal may have made; consent to the splitting of gifts under Internal Revenue Code Section 2513, or successor sections, if the spouse of the principal makes gifts to any one or more of the descendants of the principal or to a charitable institution; pay any gift tax that may arise by reason of those gifts; and loan any of the assets of the principal to the spouse or descendants of the principal, or their personal representatives or a trustee for their benefit, the loan bearing such interest, and to be secured or unsecured, as the agent determines advisable.

(9) Demand, receive, and obtain by action, proceeding, or otherwise, any money or other thing of value to which the principal is, may become, or may claim to be entitled as salary, wages, commission, or other remuneration for services performed, or as a dividend or distribution upon any stock, or as interest or principal upon any indebtedness, or as any periodic distribution of profits from any partnership or business in which the principal has or claims an interest, and endorse, collect, or otherwise realize upon any instrument for the payment so

received.

(10) Prepare, execute, and file all tax, social security, unemployment insurance, and information returns required by the laws of the United States, any state or subdivision thereof, or any foreign government; prepare, execute, and file all other papers and instruments which the agent believes desirable or necessary for the safeguarding of the principal against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation; and pay, compromise, or contest, or apply for refunds in connection with, any taxes or assessments for which the principal is or may be liable.

(11) Utilize any asset of the principal for the performance of the powers enumerated in this section, including by way of illustration, and not of restriction, the power to do all of the following:

(A) Draw money by check or otherwise from any deposit of the principal.

(B) Sell any real or personal property, bond, share, commodity interest, chose in action, or other asset of the principal.

(C) Borrow money and pledge as security for the loan any asset, including insurance, which belongs to the principal.

(12) Execute, acknowledge, verify, seal, file, and deliver any application, consent, petition, notice, release, waiver, agreement, or other instrument the agent believes useful for the accomplishment of any of the purposes enumerated in this section.

(13) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any transaction enumerated in this section or intervene in any action or proceeding relating thereto.

(14) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section or for the keeping of needed records.

(15) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent for the welfare of the spouse, children, or dependents of the principal or for the preservation and maintenance of the other personal relationships of the principal to parents, relatives, friends, and organizations.

(b) All powers described in this section are exercisable equally whether the acts required for their execution relate to real or personal property owned by the principal at the time of the giving of the power of attorney or thereafter acquired and whether the acts are performable in this state or elsewhere.

2471. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "benefits

from military service" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Execute vouchers in the name of the principal for allowances and reimbursements payable to the principal by the United States or by any state or subdivision thereof, including by way of illustration, and not of restriction, all allowances and reimbursements for transportation of the principal and of the dependents of the principal and for shipment of household effects; and receive, endorse, and collect the proceeds of any check payable to the order of the principal drawn on the treasurer or other fiscal officer or depositary of the United States or of any state or subdivision thereof.

(2) Take possession and order the removal and shipment of any property of the principal from any post, warehouse, depot, dock, or other place of storage or safekeeping, governmental or private; and execute and deliver any release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument the agent believes desirable or necessary for that purpose.

(3) Prepare, file, and prosecute the claim of the principal to any benefit or assistance, financial or otherwise, to which the principal is or claims to be entitled under the provisions of any statute or regulation existing at the time of the creation of the agency or thereafter enacted by the United States or by any state or by any subdivision thereof, or by any foreign government, which benefit or assistance arises from or is based upon military service performed before or after the creation of the agency by the principal or by any person related by blood or by marriage to the principal; and execute any receipt or other instrument the agent believes desirable or necessary for enforcement or collection of the claim.

(4) Receive the financial proceeds of any claim of the type described in this section; conserve, invest, disburse, or utilize anything so received for purposes enumerated in this section and to reimburse the agent for any expenditures properly made in the execution of the powers conferred on the agent by the statutory short form power of attorney.

(5) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, any claim existing in favor of or against the principal based on or involving any benefits from military service or intervene in any action or proceeding relating to it.

(6) Hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section.

(7) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent that the agent believes desirable or necessary to assure to the principal and to dependents of the

principal the maximum possible benefit from the military service performed before or after the creation of the agency by the principal or by any person related by blood or marriage to the principal.

(b) All powers described in this section are exercisable equally with respect to any benefits from military service existing at the time of the giving of the power of attorney or thereafter accruing, whether accruing in this state or elsewhere.

2472. (a) In a statutory short form power of attorney, the language conferring general authority with respect to "records, reports, and statements" shall be construed to mean that the principal authorizes the agent to do all of the following:

(1) Keep records of all cash received and disbursed for or on account of the principal, of all credits and debits to the account of the principal, and of all transactions affecting in any way the assets and liabilities of the principal.

(2) Prepare, execute, and file all tax, social security, unemployment insurance, and information returns required by the laws of the United States or any state or subdivision thereof or any foreign government; and prepare, execute, and file all other papers and instruments the agent believes desirable or necessary for the safeguarding of the principal against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation.

(3) Prepare, execute, and file any record, report, or statement the agent believes desirable or necessary for the safeguarding or maintenance of the principal's interest with respect to price, rent, wage, or rationing control or other governmental activity.

(4) Hire, discharge, and compensate any attorney, accountant, or other assistant, when the agent believes it necessary or desirable for the proper execution of any of the powers described in this section.

(5) In general, and in addition to all the specific acts enumerated in this section, do any other act which the principal can do through an agent in connection with the preparation, execution, filing, storage, or other utilization of any records, reports, or statements of or concerning the principal's affairs.

(b) All powers described in this section are exercisable equally with respect to any records, reports, and statements of or concerning the affairs of the principal existing at the time of the giving of the power of attorney or thereafter arising, whether in this state or elsewhere.

2473. (a) Except as provided in subdivision (b), in a statutory short form power of attorney, the language conferring general authority with respect to "all other matters" shall be construed to mean that the principal authorizes the agent to act as an alter ego of the principal with respect to any and all possible matters and affairs which are not enumerated in Sections 1460 to 1472, inclusive, and which the principal can do through an agent.

(b) A statutory short form power of attorney under this chapter does not authorize the agent to make health care decisions, as defined in Section 2430, for the principal.

CHAPTER 603

An act to amend Section 1985.3 of the Code of Civil Procedure, and to amend Section 1564 of the Evidence Code, relating to subpoena duces tecum.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 1985.3 of the Code of Civil Procedure is amended to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original or any copy of books, documents, or other writings pertaining to a consumer and which are maintained by any "witness" which is a physician, hospital, state or national bank, state or federally chartered savings and loan association, state or federal credit union, trust company, security brokerage firm, insurance company, underwritten title company, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code.

(2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with, or has used the services of, the witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to the provisions of Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(b) The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days from the date the subpoena is issued. Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum,

of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (e). This service shall be made both:

(1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall do either of the following:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign the authorization on behalf of the consumer acted with the consent of the consumer.

(d) A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof.

Except as to records subpoenaed for a criminal proceeding or records subpoenaed during trial, a subpoena duces tecum served upon a witness with records in more than one location shall be served no less than 10 days prior to the date specified for production, unless good cause is shown pursuant to subdivision (g).

(e) Every copy of the subpoena duces tecum and affidavit served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) Any consumer whose personal records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness prior to production. No witness shall be required to produce personal records after receipt of notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers

affected.

(g) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(h) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(i) The provisions of this section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

(j) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.

SEC. 2. Section 1564 of the Evidence Code is amended to read:

1564. The personal attendance of the custodian or other qualified witness and the production of the original records is not required unless, at the discretion of the requesting party, the subpoena duces tecum contains a clause which reads:

"The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized pursuant to subdivision (b) of Section 1560, and Sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena."

CHAPTER 604

An act to amend Sections 10201, 10206, 10209, and 10212 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 10201 of the Unemployment Insurance Code is amended to read:

10201. As used in this chapter:

(a) "Employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1, except any public entity, as defined by paragraph (3) of subdivision (a) of Section 135, and any nonprofit organization, as described in Section 608.

(b) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, was either (1) unemployed and either receiving unemployment insurance benefits, or had exhausted eligibility for unemployment insurance benefits within the previous 52 weeks, or (2) is employed but is determined by the panel to be likely to be displaced and therefore claiming unemployment insurance benefits.

(c) "Panel" means the Employment Training Panel created by Section 10202.

(d) "Fund" means the Employment Training Fund created by Section 1610.

(e) "Department" means the Employment Development Department.

(f) "Training agency" means any private training entity or local educational agency.

SEC. 2. Section 10206 of the Unemployment Insurance Code is amended to read:

10206. The panel may allocate money in the fund for any of the following purposes:

(a) Reimbursement of actual training costs incurred by employers and training agencies and for reasonable administrative costs.

(b) Costs of program administration incurred under this chapter. These costs shall be reviewed annually by the Department of Finance and the Legislature and determined through the normal budgetary process.

The panel's administrative costs exclusive of the cost of administering Section 976.6 shall not exceed more than 15 percent of the amount collected pursuant to Section 976.6. Expenditures for marketing and research provided under contract to the Panel under subsection (a) which otherwise would have been provided directly by the Panel shall be included in this limitation.

(c) Costs of the Legislative Analyst's program evaluation conducted pursuant to Section 15395.

SEC. 3. Section 10209 of the Unemployment Insurance Code is amended to read:

10209. (a) Contracts shall only be made with employers, groups of employers, or training agencies for job-linked training which provides specific skills for career advancement or which is preparatory for, and leads directly to, jobs with definite career potential and long-term job security.

(b) Payments shall be made in accordance with a performance contract under which partial payments may be made during training, a partial payment may be made on placement or retention of each trainee, and not less than 25 percent of the negotiated fee is withheld until the trainee has been retained in employment for 90 days after the end of training with a single employer, except for those occupations in which it is not customary for a worker to be employed 90 consecutive days with a single employer. In these latter cases, the panel may substitute a period similar to the probationary period

customary to the occupation. In no case shall the probationary period amount to less than 500 work hours. In no case shall any payment be considered to have been earned until the trainee has been retained in employment for 90 days or the equivalent probationary period for an occupation in which it is not customary for a worker to be employed 90 consecutive days with a single employer.

SEC. 4. Section 10212 of the Unemployment Insurance Code is amended to read:

10212. The panel may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for an executive director, who shall be exempt. After consultation with the panel, the Governor shall appoint two assistant directors who shall be exempt from state civil service and who shall serve at the pleasure of the panel.

CHAPTER 605

An act to add Section 237.7 to the Civil Code, and to add Section 45 to the Code of Civil Procedure, relating to parent and child.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 237.7 is added to the Civil Code, to read:

237.7. Upon appeal from a judgment freeing a minor who is a dependent child of the juvenile court from parental custody and control, the appellate court shall appoint counsel for the appellant as provided by this section.

Upon motion by the appellant and a finding that the appellant is unable to afford counsel, the appellate court shall appoint counsel for the indigent appellant, and appellant's counsel shall be provided a free copy of the reporter's and clerk's transcript. All of those costs shall be a charge against the state.

SEC. 2. Section 45 is added to the Code of Civil Procedure, to read:

45. An appeal from a judgment freeing a minor who is a dependent child of the juvenile court from parental custody and control shall have precedence over all cases in the court to which an appeal in the matter is taken. In order to enable the child to be available for adoption as soon as possible and to minimize the anxiety to all parties, the appellate court shall grant an extension of time to a court reporter or to counsel only upon an exceptional showing of good cause.

CHAPTER 606

An act to amend Sections 7099, 7099.2, 7099.3, 7099.4, 7099.5, and 7099.6 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 7099 of the Business and Professions Code is amended to read:

7099. If, upon investigation, the registrar has probable cause to believe that a licensee, or an applicant for a license under this chapter, has violated provisions of this chapter which are grounds for denial, revocation, or suspension of license, he or she may, in lieu of proceeding pursuant to this article, issue a citation to the applicant or licensee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of correction fixing a reasonable time for correction of the violation and may contain an assessment of a civil penalty.

SEC. 1.5. Section 7099.2 of the Business and Professions Code is amended to read:

7099.2. (a) The board shall promulgate regulations covering the assessment of civil penalties under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the licensee or applicant for licensure being charged.

(3) The history of previous violations.

(b) In no event shall the civil penalty be assessed in an amount greater than two thousand dollars ($2,000).

SEC. 2. Section 7099.3 of the Business and Professions Code is amended to read:

7099.3. Any licensee or applicant for licensure served with a citation pursuant to Section 7099, may appeal to the registrar within 15 working days from service of the citation with respect to violations alleged by the registrar, correction periods, amount of penalties, and the reasonableness of the change required by the registrar to correct the condition.

SEC. 3. Section 7099.4 of the Business and Professions Code is amended to read:

7099.4. If within 15 working days from service of the citation issued by the registrar, the licensee or applicant for licensure fails to notify the registrar that he or she intends to contest the citation, the citation shall be deemed a final order of the registrar and not be

subject to review by any court or agency. The 15-day period may be extended by the registrar for cause.

SEC. 4. Section 7099.5 of the Business and Professions Code is amended to read:

7099.5. If a licensee or applicant for licensure notifies the registrar that he or she intends to contest a citation issued under Section 7099, the registrar shall afford an opportunity for a hearing. The registrar shall thereafter issue a decision, based on findings of fact, affirming, modifying, or vacating the citation or penalty, or directing other appropriate relief. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

SEC. 5. Section 7099.6 of the Business and Professions Code is amended to read:

7099.6. (a) The failure of a licensee to comply with an order of correction or to pay any civil penalty assessed after the order or assessment is final is a ground for suspension or revocation of license.

(b) The failure of an applicant for licensure to comply with an order of correction or to pay any civil penalty assessed after the order or assessment is final is a ground for denial of license.

CHAPTER 607

An act to add Sections 1277 and 35182 to the Education Code, relating to schools.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 1277 is added to the Education Code, to read:

1277. The county superintendent of schools, with the approval of the county board of education and in accordance with rules prescribed by the board, may market or license any noneducational mainframe electronic data-processing software developed by that office to any person or any public or private corporation or agency. Proceeds from the marketing or licensing of noneducational mainframe electronic data-processing software under this section shall be used exclusively for educational purposes.

SEC. 2. Section 35182 is added to the Education Code, to read:

35182. The governing board of any school district may market or license any noneducational mainframe electronic data-processing software developed by the school district to any person or any public or private corporation or agency. Proceeds from the marketing or

licensing of noneducational mainframe electronic data-processing software under this section shall be used exclusively for educational purposes.

CHAPTER 608

An act to add Sections 5004.5 and 5056 to the Penal Code, relating to prisons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 5004.5 is added to the Penal Code, to read:

5004.5. The director shall require each state prison under the department's jurisdiction to develop a Mutual Aid Escape Pursuit Plan and Agreement with local law enforcement agencies. The plan, together with any supporting information, shall be submitted for annual review to the city council of the city containing or nearest to the institution and to the county board of supervisors of the county containing the prison.

Nothing in this section shall require the department to disclose any information which may threaten the security of an institution or the safety of the surrounding community.

SEC. 2. Section 5056 is added to the Penal Code, to read:

5056. (a) Each state prison under the jurisdiction of the department shall have a citizens' advisory committee. Each committee shall consist of nine members appointed by the institution superintendent or warden from a list of nominations submitted to him or her as follows:

(1) Two persons from nominations submitted by the Assembly member in whose district the prison is located.

(2) Two persons from nominations submitted by the Senator in whose district the prison is located.

(3) Two persons from nominations submitted by the city council of the city containing or nearest to the institution.

(4) Two persons from nominations submitted by the county board of supervisors of the county containing the institution.

(5) One person from nominations submitted by the chief of police of the city containing or nearest to the institution and the county sheriff of the county containing the institution.

(b) Each committee shall select its own chairperson by a majority vote of its members. The term of office of all members shall be two years. In the event of a vacancy due to resignation, death, or absence from three consecutive meetings, the appointing power shall fill the vacancy following receipt of written notification that a vacancy has

occurred.

(c) Each committee shall meet at least once every two months or as often, on the call of the chairperson, as necessary to carry out the purposes and duties of the committee. Meetings of the committee shall be open to the public. The warden or superintendent of the institution shall meet with the committee at least four times a year.

The advisory committees of the several institutions shall have the power of visitation of prison facilities and personnel in furtherance of the goals of this section.

(d) Nothing in this section shall be construed to require the disclosure by the department of information which may threaten the security of an institution or the safety of the surrounding community. Nor shall the power of visitation specified in subdivision (c) extend to situations where institutional security would be jeopardized.

SEC. 3. It is the intent of the Legislature that, because the provisions of this act relate to the performance of existing duties, no additional funds shall be appropriated and that the Department of Corrections perform these duties with existing funds.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Recent prison escapes have caused apprehension and confusion in communities surrounding existing and proposed correctional facilities. In order to reassure the citizenry and restore public peace of mind, it is necessary that this act take effect immediately.

CHAPTER 609

An act to amend Sections 81363, 84310, 85024, and 87470 of, and to add Sections 69648.5, 78440.5, 78600.5, and 84850.5 to, the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 69648.5 is added to the Education Code, to read:

69648.5. (a) The board shall adopt rules and regulations establishing requirements for appropriate credentials to be held by extended opportunity programs and services professional faculty and staff paraprofessionals. The rules and regulations shall also establish, where appropriate, training standards for these faculty and staff.

(b) Persons employed in extended opportunity programs or services as faculty or staff shall be deemed to possess the appropriate

credentials designated by the board under subdivision (a) if they have been employed in these positions for three consecutive years prior to the effective date of this section.

(c) The office of the Chancellor of the California Community Colleges may waive the credential requirements established under subdivision (a) if a person employed in extended opportunity programs or services has had three years of related work experience, or if there are other circumstances for which a waiver is appropriate.

SEC. 2. Section 78440.5 is added to the Education Code, to read:

78440.5. (a) The Board of Governors of the California Community Colleges shall adopt rules and regulations requiring that programs and services for handicapped adults provided under this article shall be provided by appropriately trained and credentialed professionals and paraprofessionals. The adopted rules and regulations shall include appropriate credentialing requirements for these positions and shall prescribe, where appropriate, training standards for these persons.

(b) Persons employed on the effective date of this section shall be deemed to possess the appropriate credentials prescribed under subdivision (a) if they have been employed for three consecutive years in these positions prior to the effective date of this section.

(c) The office of the Chancellor of the California Community Colleges may waive the credentialing requirements adopted pursuant to subdivision (a) if it is determined that a person has had three years of equivalent work experience, or if there are other circumstances which in its estimation merit a waiver.

SEC. 3. Section 78600.5 is added to the Education Code, to read:

78600.5. (a) The Board of Governors of the California Community Colleges shall adopt rules and regulations requiring that programs and services for handicapped adults provided under this article shall be provided by appropriately trained and credentialed professionals and paraprofessionals. The adopted rules and regulations shall include appropriate credentialing requirements for these positions and shall prescribe, where appropriate, training standards for these persons.

(b) Persons employed on the effective date of this section shall be deemed to possess the appropriate credentials prescribed under subdivision (a) if they have been employed for three consecutive years in these positions prior to the effective date of this section.

(c) The office of the Chancellor of the California Community Colleges may waive the credentialing requirements adopted pursuant to subdivision (a) if it is determined that a person has had three years of equivalent work experience, or if there are other circumstances which in its estimation merit a waiver.

SEC. 4. Section 81363 of the Education Code is amended to read:

81363. The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay or deferred maintenance; provided, however, that the proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5

may be deposited in the general fund of the district if, prior to the sale or lease, the community college district governing board has determined that the district has no anticipated need for additional sites or building construction for the five-year period following the sale or lease.

SEC. 5. Section 84310 of the Education Code is amended to read:

84310. Before any apportionment is made pursuant to the provisions of Section 84309, the following requirements shall be met:

(a) The community college district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the district a report prepared by an independent auditor approved by the county superintendent of schools on the financial and budgetary conditions of the district, a written management review conducted by a qualified management consultant approved by the county superintendent of schools, and a plan adopted by the governing board to resolve the financial problems of the district.

(b) The county superintendent of schools shall review and evaluate the independent auditor's report, the management review, and the district plan.

(c) The county superintendent of schools shall submit to the chancellor, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, and the Director of Finance a copy of the reports and plan specified in subdivision (a) with comments and recommendations.

(d) The chancellor shall review the reports submitted to him or her by the county superintendent of schools and shall provide comments and recommendations to the Director of Finance.

(e) The Legislature shall have specifically appropriated sufficient funds to make the apportionment. The act making the appropriation shall contain a schedule of repayments made pursuant to this article.

SEC. 6. Section 84850.5 is added to the Education Code, to read:

84850.5. (a) The Board of Governors of the California Community Colleges shall adopt rules and regulations requiring that programs and services for disabled students provided under this article shall be provided by appropriately trained and credentialed professionals and paraprofessionals. The adopted rules and regulations shall include appropriate credentialing requirements for these positions and shall prescribe, where appropriate, training standards for these persons.

(b) Persons employed on the effective date of this section shall be deemed to possess the appropriate credentials prescribed under subdivision (a) if they have been employed for three consecutive years in these positions prior to the effective date of this section.

(c) The office of the Chancellor of the California Community Colleges may waive the credentialing requirements adopted pursuant to subdivision (a) if it is determined that a person has had three years of equivalent work experience, or if there are other circumstances which in its estimation merit a waiver.

SEC. 7. Section 85024 of the Education Code is amended to read:

85024. (a) Except as otherwise provided in subdivision (b), if the governing board of any community college district neglects or refuses to make a community college district budget as prescribed by the office of the Chancellor of the California Community Colleges, or fails to file a budget by the deadline dates specified in Section 85023, the chancellor may direct the county superintendent of schools to, or the county superintendent of schools may, withhold any apportionment of state or local money to the particular community college district for the current community college fiscal year until the district complies with its duties pursuant to Section 85023.

(b) No penalty shall be imposed upon a district pursuant to subdivision (a) if the chancellor or the county superintendent of schools determines that unique circumstances make it impossible for the district to comply with its duties pursuant to Section 85023, or if there are delays in the enactment of the annual Budget Act.

SEC. 8. Section 87470 of the Education Code is amended to read:

87470. The governing board of any community college district may employ persons possessing an appropriate credential as certificated employees in programs and projects to perform services conducted under contract with public or private agencies, or other categorically funded projects of indeterminate duration. The terms and conditions under which such persons are employed shall be mutually agreed upon by the employee and the governing board and such agreement shall be reduced to writing. Service pursuant to this section shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a regular employee of a community college district unless (1) such person has served pursuant to this section for at least 75 percent of the number of days in regular schools of the district by which he is employed are maintained, and (2) such person is subsequently employed as a contract employee in a position requiring certification qualifications. Such persons may be employed for periods which are less than a full school year and may be terminated at the expiration of the contract or specially funded project without regard to other requirements of this code respecting the termination of contract or regular employees.

This section shall not be construed to apply to any regularly credentialed employee who has been employed in the regular educational programs of the district as a contract employee before being subsequently assigned to any one of these programs nor shall it apply to those employees employed in programs operated pursuant to, or funded pursuant to, Article 8 (commencing with Section 69640) of Chapter 2 of Part 42, or Section 78440, 78441, 78600, or 84850.

SEC. 9. (a) Notwithstanding Section 81363.5 of the Education Code, the Long Beach Community College District may negotiate the sale of the district property described in subdivision (b). This exemption shall remain in effect for a period of two years after the

effective date of this act.

(b) The Legislature finds and declares that the provisions of this section are necessary in order to enable the Long Beach Community College District to negotiate the sale of approximately 18 acres of land presently owned by the district. This land is generally described as the southeast corner of the intersection of Lakewood Boulevard and Carson Street in the City of Long Beach.

Due to these unique circumstances concerning the Long Beach Community College District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 10. The amendments made to subdivisions (b) and (c) of Section 84310 of the Education Code by this act, is intended by the Legislature to be a clarification of existing law as to the original intent of having the county superintendent review the independent auditor's report, the management review, and the district plan.

SEC. 11. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 12. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent undue fiscal hardship to the Long Beach Community College District, to provide the state with timely and accurate information regarding the Community Colleges, and to allow community college districts to meet their contracts, obligations, and other required expenses for the 1983–84 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 610

An act to amend Section 830.4 of the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under the terms and conditions specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Security officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

(m) Security officers of the Department of General Services of the City of Los Angeles designated by the general manager of the department. Notwithstanding any other provision of law, the peace officers designated by this subdivision shall not be authorized to carry firearms.

SEC. 2. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in

the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under such terms and conditions as are specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

(m) Security officers of the Department of General Services of the City of Los Angeles designated by the general manager of the department. Notwithstanding any other provision of law, the peace officers designated by this subdivision shall not be authorized to carry firearms.

SEC. 2.5. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to

believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under the terms and conditions specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Security officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county, or employed by the police department of a city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

(m) Security officers of the Department of General Services of the City of Los Angeles designated by the General Manager of the department. Notwithstanding any other provision of law, the peace officers designated by this subdivision shall not be authorized to carry firearms.

SEC. 2.7. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under

such terms and conditions as are specified by, their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county or employed by the police department of a city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

(m) Security officers of the Department of General Services of the City of Los Angeles designated by the General Manager of the department. Notwithstanding any other provision of law, the peace officers designated by this subdivision shall not be authorized to carry firearms.

SEC. 3. (a) Section 2 of this bill incorporates amendments to Section 830.4 of the Penal Code proposed by both this bill and AB 2518. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 830.4 of the Penal Code, (3) SB 931 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2518, in which case Section 830.4 of the Penal Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 2518, at which time Section 2 of this bill shall become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 830.4 of the Penal Code proposed by both this bill and SB 931. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 830.4 of the Penal Code, (3) AB 2518 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 931, in which case Section 830.4 of the Penal Code as amended by Section 1 of this bill shall remain operative only until the operative date of SB 931, at which time

Section 2.5 of this bill shall become operative and Sections 2 and 2.7 of this bill shall not become operative.

(c) Section 2.7 of this bill incorporates amendments to Section 830.4 of the Penal Code proposed by this bill, AB 2518, and SB 931. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) all three bills amend Section 830.4 of the Penal Code, and (3) this bill is enacted after AB 2518 and SB 931, in which case Section 830.4 of the Penal Code as amended by Section 1 of this bill shall remain operative only until the operative date of AB 2518 and SB 931, at which time Section 2.7 of this bill shall become operative and Sections 2 and 2.5 of this bill shall not become operative.

SEC. 4. It is the intent of the Legislature that the changes effected by Section 1 of this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 5. It is the intent of the Legislature that the additional changes effected by Section 2 of this act serve only to rename security officers of the County of Los Angeles as safety police officers of the County of Los Angeles.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to give security officers charged with the protection of public employees and buildings in the City of Los Angeles increased police powers during the 1984 Summer Olympics, it is necessary that this act take immediate effect.

CHAPTER 611

An act to add Section 1017 to the Fish and Game Code, relating to resources.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 1017 is added to the Fish and Game Code, to read:

1017. (a) It is the policy of the state to anticipate and resolve potential conflicts between the management, conservation, and protection of fish and wildlife resources and their habitat and private

and public activities that may affect them.

(b) Accordingly, the department may use such informal consultative procedures prior to taking any formal action as will assist in the achievement of this policy.

(c) Any costs incurred by the department in engaging in informal consultative procedures, including, but not limited to, fees charged by any neutral party acting in the capacity of a mediator, discussion facilitator, or convener, are a proper charge against any funds lawfully available to the department for this purpose.

(d) The authority conferred by this section is not intended, and shall not be construed, to increase, decrease, duplicate, or supersede any other authority of the department or the commission under this code or any other provision of law.

(e) As used in this section, "formal action" means the adoption, amendment, or repeal of any rule, regulation, or order; entering into, amending, or canceling an agreement; and the issuance, suspension, or revocation of any permit, license, or other entitlement.

CHAPTER 612

An act relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. The State Department of Health Services shall engage an independent consultant to conduct a study of problems encountered by persons with disabilities in gaining access to quality medical care under the Medi-Cal program. A report of the results of the study shall be submitted to the Legislature on or before January 1, 1986. A committee consisting of no more than 10 members shall meet at least four times and shall be involved in the selection of the consultant and the conduct of the study. The following groups shall be represented on the study committee:

(a) The California Association of the Physically Handicapped.

(b) The California Medical Association.

(c) The California Rural Legal Assistance Foundation.

(d) The California Association of Rehabilitation Facilities.

(e) Other interested individuals or organizations.

SEC. 2. The study described in Section 1 shall include, but not be limited to, a discussion of the following issues:

(a) The percentage of physicians and other health care providers who currently participate in the Medi-Cal program.

(b) The reasons for the lack of participation.

(c) The numbers of persons served, and per capita costs of serving individuals covered by Medi-Cal and private health insurance plans.

(d) The extent to which persons with disabilities who are Medi-Cal recipients have been denied medical care.

(e) The extent to which persons with disabilities are denied coverage by private health insurance plans.

(f) The anticipated impact of capitation on access and quality of care for persons with disabilities.

(g) Alternative strategies for ensuring access to quality care at reasonable cost.

SEC. 3. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Department of Health Services for the purpose of conducting the study and preparing the report described in Section 1 of this act.

CHAPTER 613

An act to amend Section 17200 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 17200 of the Welfare and Institutions Code is amended to read:

17200. Work may be required of an indigent, who is eligible to receive benefits under Section 17000, and who is not incapacitated by reason of age, disease, or accident, as a condition of relief. This work shall be created for the purpose of assisting in his or her rehabilitation and the preservation of his or her self-respect.

CHAPTER 614

An act to add Sections 23985.5 and 24015.5 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 18, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Section 23985.5 is added to the Business and Professions Code, to read:

23985.5. Notwithstanding any other provision of this article, in any instance affecting issuance of any on-sale or off-sale license, the department shall require that the applicant mail notification of the application to every resident of real property within a 500-foot radius

of the premises for which the license is to be issued. The applicant shall submit proof of compliance to the department prior to license approval.

SEC. 2. *Section 24015.5* is added to the Business and Professions Code, to read:

24015.5. Notwithstanding any other provision of law, in the case of a protest of the issuance or transfer of a license to engage in the sale of alcoholic beverages, the department shall consider scheduling the hearing at a time, including evening hours, and at a place convenient to all parties to a proceeding, including those witnesses required to be present, and the public affected.

CHAPTER 615

An act to add and repeal Title 12 (commencing with Section 93000) of the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1984 Filed with Secretary of State July 19, 1984.]

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

SECTION 1. Title 12 (commencing with Section 93000) is added to the Government Code, to read:

TITLE 12. REDWOOD REGION RAILROAD AUTHORITY

CHAPTER 1. CREATION OF AUTHORITY

93000. This title shall be known and may be cited as the Redwood Region Railroad Act.

93001. The Redwood Region Railroad Authority is hereby created within the Counties of Humboldt, Marin, Mendocino, Sonoma, and Trinity to provide rail passenger and freight service within those counties.

93002. The authority shall be governed by a board of directors composed of one representative appointed by the board of supervisors of each of the counties specified in Section 93001. Each director shall serve for a term of two years.

CHAPTER 2. POWERS AND DUTIES OF AUTHORITY

93010. The authority has the following powers:

(a) To acquire, own, operate, and lease real and personal property reasonably related to the operation and maintenance of railroads.

(b) To issue revenue bonds pursuant to Section 93012 for any purpose of the authority.

(c) To acquire property by purchase, lease, gift, or through exercise of the power of eminent domain.

(d) To operate outside its boundaries in order to connect its lines with the lines of another railroad corporation.

(e) To accept grants or loans from state or federal agencies.

(f) To lease its railroad facilities to a nongovernmental entity.

93011. The authority may acquire, own, lease, and operate railroad lines and equipment including, but not limited to, real and personal property, tracks, rights-of-way, equipment, and facilities.

93012. (a) The authority may issue bonds, payable from revenues of any facility or enterprise to be acquired or constructed by the authority, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

However, an election is not required in the case of revenue bonds authorized by the board of directors for railroad facilities, and any addition, extension, and improvement thereto, and all other facilities authorized to be acquired, constructed, or completed by the authority under this title.

(b) The district is a local agency within the meaning of the Revenue Bond Law of 1941. The term "enterprise," as used in that law, includes railroad facilities, and any addition, extension, and improvement thereto, and all other facilities authorized to be acquired, constructed, or completed by the authority under this title.

93013. The state is not liable for any contracts, debts, or other obligations of the authority.

93014. The authority may not acquire any right-of-way of the Northwestern Pacific Railroad or its parent company that lies south of the interchange of the Northwestern Pacific Railroad main line and the Schellville branch line.

CHAPTER 3. TEMPORARY PROVISIONS

93030. This title shall become operative on the date that the Interstate Commerce Commission approves a petition submitted by the Southern Pacific Transportation Company for abandonment or discontinuance of operations of any portion of its subsidiary Northwestern Pacific Railroad.

93031. Not later than 10 days after approval of a petition by the Southern Pacific Transportation Company for abandonment or discontinuance of operations of any portion of the Northwestern Pacific Railroad, the Secretary of State shall notify the boards of supervisors of the Counties of Humboldt, Marin, Mendocino, Sonoma, and Trinity that this title is operative, and that the respective boards shall each appoint one representative to serve on the board of directors of the authority pursuant to Section 93002. The representative shall be appointed at the first regular meeting of the board of supervisors occurring after notification by the Secretary of State pursuant to this section.

93032. The Secretary of State shall call the first meeting of the board of directors within 30 days of approval of the petition for abandonment or discontinuance of operations. The first meeting of the board of directors shall be held in the City of Willits.

93033. Unless the Interstate Commerce Commission has approved a petition by the Southern Pacific Transportation Company for abandonment or discontinuance of operations of any portion of the Northwestern Pacific Railroad on or before January 1, 1986, this title is repealed as of that date unless a later enacted statute which is enacted on or before January 1, 1986, deletes or extends that date.

93034. It is the intent of the Legislature to provide an alternative for ensuring railroad service if the Interstate Commerce Commission authorizes the abandonment or discontinuance of service along the current Northwestern Pacific Railroad line.

It is the intent of the Legislature that this title not provide a justification for the commission to grant a petition for abandonment or discontinuance of service.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Northwestern Pacific Railroad is proposed for abandonment with the consequent loss of unique and irreplaceable rights-of-way which may be extremely costly or impossible to reacquire unless this act becomes effective immediately.

CHAPTER 616

An act relating to nutrition, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 1984. Filed with Secretary of State July 19, 1984.]

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

SECTION 1. This act shall be known and may be cited as the Senior Nutrition Maintenance and Home-Delivered Meals Act of 1984.

SEC. 2. (a) The Legislature finds and declares that many elderly persons do not eat adequately because: (1) they cannot afford to do so; (2) they lack the ability to select and prepare nourishing and well-balanced meals; (3) they have limited mobility which may impair their capacity to shop and cook for themselves; and (4) they have feelings of rejection and loneliness which lessen the incentive necessary to prepare and eat a meal alone. These problems, and other physiological, psychological, social and economic changes that

occur with aging, result in a pattern of living which causes malnutrition and further physical and mental deterioration. Furthermore, these problems often result in premature and unnecessary institutionalization.

(b) Accordingly, the Legislature declares that the Senior Nutrition Maintenance Act of 1984 is enacted to provide for the best possible physical and mental health of California's elderly and, whenever possible, to maintain the elderly in their home environment with maximum independence and dignity.

This act further ensures the maintenance of fiscal year 1983–84 nutrition funding levels in the 1984–85 fiscal year and thereafter, and directs the Department of Aging to annually seek funding to represent this level, and provides for increasing the availability of home-delivered meal services to the elderly in order to begin to meet the vast unmet need of home-bound seniors throughout California.

SEC. 3. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the Department of Aging, for the purposes, and in the order of descending priorities specified in Section 4.

SEC. 4. (a) The Department of Aging, utilizing funds appropriated pursuant to Section 3, shall fund area agencies on aging under Part C of Title III of the federal Older Americans Act of 1965 during the 1984–85 fiscal year to maintain those area agencies on aging at the 1983–84 fiscal year level of state and federal funding, prior to allowable transfers, excluding funds carried over from the 1982–83 fiscal year. However, funds appropriated pursuant to Section 4 shall not be utilized for any state administrative costs which may be incurred.

(b) The department shall allocate funds to area agencies to increase the number of elderly persons participating in the Home-delivered Meals Program, thereby reducing the number of elderly persons who are currently on waiting lists.

(c) The department shall allocate funds to area agencies to increase, on a statewide basis, the number of days per week that meals are provided under the Home-delivered Meals Program from five to seven. Individual program participants shall be provided the option to receive meals seven days a week. Meal providers may conduct activities to encourage family members or other persons to provide weekend meals for home-bound elders.

(d) The department shall allocate funds to area agencies to provide modified diets specific to the needs of the individuals being served within the Home-delivered Meals Program.

(e) The department shall allocate funds to area agencies for nutrition programs to establish an active ongoing outreach program to ensure that California's elderly are aware of the availability of home-delivered meal services. This outreach effort shall be targeted to California's rural elderly and those who are socially and economically disadvantaged, with a special emphasis on minority

elderly.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall go into immediate effect. The facts constituting the neccessity are:

This act uses state funding sources to augment federal funds which can be used to address the substantial unmet hunger and nutritional needs of California's elderly, and in order to solve the problem of unmet needs at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 617

An act to add and repeal Section 30648 of the Public Utilities Code, relating to transit.

[Approved by Governor July 30, 1984. Filed with Secretary of State August 1, 1984.]

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

SECTION 1. Section 30648 is added to the Public Utilities Code, to read:

30648. (a) The Legislature recognizes that the district made specified representations regarding construction plans at the time it received authorization to proceed with the planning and construction of an exclusive public mass transit guideway system.

(b) The Legislature further recognizes that it is traditionally less expensive to construct exclusive public mass transit guideway systems using two construction crews working from each terminus to the middle.

(c) Within one year after the start of construction of any portion of the exclusive public mass transit guideway system-San Fernando Valley-Downtown Los Angeles Metro Rail project, the district shall start station construction on the segment of the system in the San Fernando Valley, as defined in Section 11093 of the Government Code. In the aggregate, the funding in each year for below-ground construction on the North Hollywood terminus station, as defined on pages 2-7 and 2-57 of the final Environmental Impact Statement/Environmental Impact Report for the project, dated December 1983, and for tunneling and subway construction within this segment shall not be less than 15 percent of the amount of nonfederal funds allocated and spent in the previous year to construct the metro rail project.

(d) If the entire public mass transit guideway system-San Fernando Valley-Downtown Los Angeles Metro Rail project is converted to an at-grade light rail system, then the construction to be done with the portion of the funds designated in subdivision (c)

for tunneling and subway construction may be modified to conform to the mode of construction to be used on the entire route of the San Fernando Valley-Downtown Los Angeles Metro Rail project.

(e) Funding for this construction may include, but is not limited to, any of the following sources:

(1) Funds derived from Los Angeles County Transportation Commission revenue bonds.

(2) Funds derived from the Los Angeles County Transportation Commission one-half of 1 percent transactions and use tax.

(3) Funds allocated for exclusive public mass transit guideway construction pursuant to Article XIX of the California Constitution and funds for that construction allocated from the Transportation Planning and Development Account in the State Transportation Fund.

(f) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections.

Reimbursement to the Southern California Rapid Transit District for any state-mandated local program costs incurred in compliance with this act shall come from the funds allocated to the district by the California Transportation Commission for the planning or construction of the exclusive public mass transit guideway system-San Fernando Valley-Downtown Los Angeles Metro Rail project.

CHAPTER 618

An act to amend Section 12452 of the Penal Code, relating to tear gas.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 12452 of the Penal Code is amended to read:

12452. (a) Any manufacturer of tear gas or tear gas weapons may apply to the Department of Justice, hereinafter referred to as the "department" in this article, for certification that a particular type and brand of tear gas or tear gas weapon manufactured or assembled by that person is acceptable.

(b) The term "manufacturer" as used in this article means any person, firm, or corporation which makes tear gas or tear gas weapons, or which assembles raw materials or components to create

tear gas or tear gas weapons.

(c) No device submitted for certification by a party other than the actual manufacturer prior to January 1, 1985, shall be sold after January 1, 1986, unless the device has been recertified pursuant to the provisions of this section as amended during the 1984 portion of the 1983–84 Regular Session of the Legislature.

CHAPTER 619

An act to amend Sections 25532 and 31403 of the Corporations Code, and to amend Section 1391 of the Health and Safety Code, relating to the Commissioner of Corporations.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 25532 of the Corporations Code is amended to read:

25532. (a) If, in the opinion of the commissioner, the sale of any security is subject to qualification under this law and it is being or has been offered or sold without first being qualified, the commissioner may order the issuer or offeror of such security to desist and refrain from the further offer or sale of such security unless and until qualification has been made under this law.

(b) If in the opinion of the commissioner any person is acting as a broker-dealer or investment adviser in violation of Section 25210 or 25230, the commissioner may order such person to desist and refrain from such activity unless and until the person has been licensed as such under this law.

(c) If, after an order has been made under subdivision (a) or (b), a request for hearing is filed in writing within one year of the date of service of the order by the person to whom the order was directed, a hearing shall be held in accordance with the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the powers granted under that chapter. Unless the hearing is commenced within 15 business days after the request is filed (or the person affected consents to a later date), such order is rescinded.

If that person fails to file a written request for a hearing within one year from the date of service of the order, the order shall be deemed a final order of the commissioner and shall not be subject to review by any court or agency, notwithstanding Section 25609.

SEC. 2. Section 31403 of the Corporations Code is amended to read:

31403. If, in the opinion of the commissioner, the offer of any

franchise exempt from registration under this law is being or has been offered for sale without complying with Section 31101 or 31201, the commissioner may order the franchisor or offeror of such franchise to desist and refrain from the further offer or sale of such franchise unless and until such offer is made in compliance with this law. If, after such an order has been made, a request for a hearing is filed in writing within one year from the date of service of the order by the person to whom the order was directed, a hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the commissioner shall have all of the powers granted under that chapter. Unless that hearing is commenced within 15 business days after the request is made, or the person affected consents to a later date, the order shall be deemed rescinded.

If that person fails to file a written request for a hearing within one year from the date of service of the order, the order shall be deemed a final order of the commissioner and shall not be subject to review by any court or agency, notwithstanding Section 31501.

SEC. 3. Section 1391 of the Health and Safety Code is amended to read:

1391. (a) The commissioner may issue an order directing a plan, solicitor firm, or any representative thereof, or a solicitor to cease and desist from engaging in any act or practice in violation of the provisions of this chapter.

If that person fails to file a written request for a hearing within one year from the date of service of the order, the order shall be deemed a final order of the commissioner and shall not be subject to review by any court or agency, notwithstanding subdivision (b) of Section 1397.

(b) If a timely request for a hearing is made by a licensed plan, the request shall automatically stay the effect of the order only to the extent that the order requires the cessation of operation of the plan or prohibits acceptance of new members by the plan or both. However, no automatic stay shall be issued if any examination or inspection of the plan performed by the commissioner discloses, or reports or documents submitted to the commissioner by the plan on their face show, that the plan is in violation of any fiscal requirement of this chapter or in violation of any requirement of Section 1384 or 1385. In the event of an automatic stay, only that portion of the order requiring cessation of operation or prohibiting enrollment shall be stayed and all other portions of the order shall remain effective. If a hearing is held, and a finding is made that the health or safety of the members and potential members of the plan might be adversely affected by its continued operation, the stay shall be terminated. Such a finding shall be made, if at all, not later than 30 days after the date of the hearing.

(c) If a timely request for a hearing is made by an unlicensed plan, the commissioner may stay the effect of the order to the extent that the order requires the cessation of operation of the plan or prohibits

acceptance of new members by the plan, for such period and subject to such conditions as the commissioner may require, upon a determination by the commissioner that the action would be in the public interest.

SEC. 4. The amendments to Sections 25532 and 31403 of the Corporations Code and to Section 1391 of the Health and Safety Code made by this act shall apply only to orders issued pursuant to those sections on or after the effective date of this act.

CHAPTER 620

An act to amend Sections 11000, 11001, 11002, 11003, 11004, and 11005 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984]

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

SECTION 1. Section 11000 of the Education Code is amended to read:

11000. There is hereby established the California Academic Partnership Program, to be administered by the Trustees of the California State University, in cooperation with the Regents of the University of California, the Board of Governors of the California Community Colleges, and the Superintendent of Public Instruction. The purpose of the program shall be to develop cooperative efforts to improve the academic quality of public secondary schools with the objective of improving the preparation of all students for college. Projects funded under the provisions of this chapter may address improvements in secondary school curriculum and the ability of students to benefit from these improvements. Academic partnership projects shall be distributed throughout the state in order to provide schools located in rural, urban, and suburban areas with access to these services.

SEC. 2. Section 11001 of the Education Code is amended to read:

11001. The Chancellor of the California State University shall establish an advisory committee to assist in selecting proposals to be funded and developing criteria for project evaluation. The committee shall be composed of the following members:

(a) Two certificated secondary school teachers, including at least one junior high or intermediate school teacher, appointed by the Superintendent of Public Instruction.

(b) Two certificated secondary school employees with responsibility for curriculum administration, appointed by the Superintendent of Public Instruction.

(c) One director of a regional consortium participating in the

California Student Opportunity Access Program established pursuant to Chapter 113 of the Statutes of 1978, appointed by the Student Aid Commission.

(d) Two representatives of the California Community Colleges, to be appointed by the Chancellor of the California Community Colleges, at least one of whom shall be a faculty member.

(e) Two representatives of the California State University, to be appointed by the Chancellor of the California State University, at least one of whom shall be a faculty member.

(f) Two representatives of the University of California, appointed by the President of the University of California, at least one of which shall be a faculty member.

(g) One representative, appointed by the Director of the California Postsecondary Education Commission.

Faculty appointments to the advisory committee shall be made by the appropriate appointing authority through consultation with the faculty senate.

SEC. 3. Section 11002 of the Education Code is amended to read:

11002. The advisory committee shall make recommendations regarding all of the following:

(a) Development of criteria for awarding grants pursuant to Section 11003.

(b) Development of criteria for determining the priority ranking of schools selected to receive assistance under the California Academic Partnership Program.

(c) Development of criteria for identifying projects which are ineffective.

(d) Development of options identifying additional resources and efforts which promote the objectives of the program.

(e) Development of a general policy for cooperative diagnostic testing of secondary students with assessment instruments commonly used by California postsecondary educational institutions.

SEC. 4. Section 11003 of the Education Code is amended to read:

11003. (a) A school district together with a postsecondary educational institution or a consortium of postsecondary educational institutions may submit a joint application to the Chancellor of the California State University for a grant to fund a project intended to improve student performance in secondary schools. The advisory committee shall give consideration to the following, in addition to its own criteria for the recommendation of programs for funding:

(1) The inclusion of a comprehensive plan for curricular revision or enhancement and instructional change.

(2) The participation of postsecondary campus faculty working as equal partners with secondary school teachers in efforts to improve the academic quality of college preparatory instruction.

(3) The provision of activities and services designed to enhance the ability of students to benefit from college preparatory curricula.

(4) The provision of in-service training designed to increase college aspirations of students from groups with low participation

rates in postsecondary institutions.

(5) The inclusion of procedures for the independent evaluation of the program budget.

(6) Plans for the participation of more than one secondary school.

(7) Plans for the inclusion of intermediate or junior high schools in the project.

(8) Plans for the continuation of the project after funding ceases.

(b) Upon receipt of an application submitted pursuant to subdivision (a), the Chancellor of the California State University may award a grant to the joint applicants for purposes of funding the proposed project. Each project which receives a grant pursuant to this subdivision shall provide matching funds from existing funds received from federal, state, local, or private sources or budget increases in those funds, with preference to projects which have the strongest demonstrated institutional commitment. Priority shall be given to projects which serve either of the following:

(1) Schools and school districts utilizing the provisions of Article 4 (commencing with Section 54700) of Chapter 9 of Part 29.

(2) Schools with low student participation in institutions of postsecondary education or with a concentration of students from groups which are underrepresented in postsecondary education, affording priority to those applicants in inverse order of their level of student participation in institutions of postsecondary education authorized to award baccalaureate degrees.

(c) The Chancellor of the California State University, with the assistance of the advisory committee established under Section 11001, and with the advice of faculty from appropriate disciplines, shall establish a voluntary cooperative program for the academic assessment of secondary school students in the state. In developing this system, the chancellor shall take steps necessary to ensure that increased uses of assessment instruments assist in all of the following:

(1) Reducing the demand for remedial programs at the postsecondary level.

(2) Analyzing student readiness for college-level work.

(3) Identifying the academic needs of students for secondary school teachers and counselors.

(4) Encourage and give priority to schools identified in paragraph (2) of subdivision (b) of Section 11003 for the utilization of these instruments.

SEC. 5. Section 11004 of the Education Code is amended to read:

11004. The California Postsecondary Education Commission shall provide a progress report on the California Academic Partnership Program to the Legislature on or before January 1, 1986, and a final evaluation report on or before January 1, 1988. The evaluation shall include, but need not be limited to, indicators of increases in the number of students enrolled in postsecondary educational institutions, indicators of students' improved preparation for baccalaureate work, reductions in dropout rates, and the assessment of the effectiveness of the program by participating school districts

and postsecondary institutions, together with recommendations from the commission for the improvement of the program.

SEC. 6. Section 11005 of the Education Code is amended to read:

11005. Based upon evaluations conducted pursuant to Section 11004, the California Postsecondary Education Commission may identify projects which are ineffective or not cost-effective for termination. Funds made available as a result of that termination shall be reallocated for the awarding of new grants pursuant to Section 11003.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the selection processes and criteria prescribed in this act will be implemented for the California Academic Partnership Program for the 1984–85 school year, it is necessary that this act take effect immediately.

CHAPTER 621

An act to amend Sections 4000, 12500, 12501, and 14605 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 4000 of the Vehicle Code, as amended by Chapter 213 of the Statutes of 1984, is amended to read:

4000. (a) No person shall drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, logging dolly, or auxiliary dolly unless it is registered and the appropriate fees have been paid under this code, except that an off-highway motor vehicle which displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility without being registered or paying registration fees.

For purposes of this subdivision, "offstreet public parking facility" means any publicly owned parking facility, and any privately owned parking facility for which no fee for the privilege to park is charged and which is held open for the common public use of retail customers. This subdivision does not apply to any motor vehicle stored in a privately owned offstreet parking facility by, or with the express permission of, the owner of the privately owned offstreet parking facility.

(b) No person shall drive, move, or leave standing upon a highway

any motor vehicle, as defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, which has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26.

(c) This section does not apply, following payment of fees due for registration, during the time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the Revenue and Taxation Code.

(d) When a vehicle is towed by a tow car on order of a sheriff, marshal, or other official acting pursuant to a court order or on order of a peace officer acting pursuant to Chapter 10 (commencing with Section 22650) of Division 11, subdivision (a) of this section does not apply.

SEC. 2. Section 12500 of the Vehicle Code is amended to read:

12500. (a) No person shall drive a motor vehicle upon a highway, unless the person then holds a driver's license issued under this code, except those persons who are expressly exempted under this code.

(b) No person shall drive a motor vehicle or combination of vehicles that is not of a type for which the person is licensed.

(c) No person shall drive a motor vehicle in or upon any offstreet parking facility, unless the person then holds a driver's license of the appropriate class or certification to operate the vehicle. As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

SEC. 3. Section 12501 of the Vehicle Code is amended to read:

12501. The following persons are not required to obtain a driver's license:

(a) An officer or employee of the United States, while operating a motor vehicle owned or controlled by the United States on the business of the United States.

(b) Any person while driving or operating implements of husbandry incidentally operated or moved over a highway, except as provided in Section 36300.

(c) Any person driving or operating an off-highway motor vehicle subject to identification, as defined in Section 38012, while driving or operating such motor vehicle as provided in Section 38025. Nothing in this subdivision authorizes operation of a motor vehicle by a person without a valid driver's license upon any offstreet parking facility, as defined in subdivision (c) of Section 12500.

SEC. 4. Section 14605 of the Vehicle Code is amended to read:

14605. (a) No person who owns or is in control of a motor vehicle shall cause or permit another person to operate the vehicle within or upon an offstreet parking facility if the person has knowledge that the driver does not have a driver's license of the appropriate class or certification to operate the vehicle.

(b) No operator of an offstreet parking facility shall hire or retain in his employment an attendant whose duties involve the operating of motor vehicles unless such attendant, at all times during such employment, is licensed as a driver under the provisions of this code.

(c) As used in this section, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes all publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 622

An act to amend Section 48918 of the Education Code, relating to schools.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 48918 of the Education Code is amended to read:

48918. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to the following:

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays of the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall require that the pupil shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the governing board.

In the event that compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable, the superintendent of schools or the

superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the district which relate to the alleged violation; and the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses.

(c) Notwithstanding the provisions of Section 54593 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board may meet in closed session for the purpose of deliberating and determining if the pupil should be expelled.

If the governing board or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil shall also be allowed to attend the closed deliberations.

(d) In lieu of conducting an expulsion hearing itself, the governing board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board may also appoint an impartial adminstrative panel of three or more certificated persons, none of whom shall be members of the board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays following the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the

pupil shall be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent of schools or the superintendent's designee after consultation with school district personnel, including the pupil's teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the governing board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.

(g) A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

(h) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(i) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent to the pupil or the pupil's parent or guardian and shall be

accompanied by notice of the right to appeal the expulsion to the county board of education.

A decision of the governing board whether to expel a pupil shall be made within 10 schooldays following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall make its decision about a pupil's expulsion within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

(j) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a nonprivileged, disclosable public record.

The expulsion order and the causes therefor shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

CHAPTER 623

An act to amend Section 72602.1 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 72602.1 of the Government Code is amended to read:

72602.1. In addition to the number of judges prescribed by Section 72602, there shall be two additional judges for the Long Beach Municipal Court District; provided, that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for a total of up to five additional judges for the Long Beach Municipal Court District and adopts a resolution or resolutions to that effect, there shall be a total of five additional judges for the Long Beach Municipal Court District.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve the smooth operation of the court, it is necessary that this act take effect immediately.

CHAPTER 624

An act to amend Section 798.31 of the Civil Code, relating to mobilehomes.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 798.31 of the Civil Code is amended to read:

798.31. A homeowner shall not be charged a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered.

A homeowner shall not be charged a fee for obtaining a lease on a mobilehome lot for (1) a term of 12 months, or (2) a lesser period as the homeowner may request. A fee may be charged for a lease of more than one year if the fee is mutually agreed upon by both the homeowner and management.

CHAPTER 625

An act to amend Section 42311 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 42311 of the Health and Safety Code is amended to read:

42311. (a) A district board may adopt, by regulation, a schedule of annual fees to be paid for the evaluation, issuance, and renewal of permits to cover the cost of district programs related to permitted stationary sources authorized or required under the provisions of this division that are not otherwise funded. In no event shall the fees assessed under this section exceed, for any fiscal year, the actual cost of district programs for the immediately preceding fiscal year with an adjustment no greater than the change in the annual California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code for the preceding year. Any revenues received by the district pursuant to the fees, which exceed the cost of the programs, shall be carried over for expenditure in the subsequent fiscal year, and the schedule of fees shall be changed to reflect that carryover. Every person applying for a permit, notwithstanding Section 6103 of the Government Code, shall pay the

fees required by the schedule.

(b) In addition to the fees authorized by subdivision (a), the district board may adopt, by regulation, a fee schedule for district programs related to permitted stationary sources for fiscal years ending before July 1, 1986, which allows the district to offset the loss of any state and federal subvention funds. In no event shall the total amount raised by this fee schedule exceed the amount of funds lost from state and federal subventions.

(c) Except as provided in Section 42313, all the fees shall be paid to the district treasurer to the credit of the district.

(d) This section does not apply to the south coast district board which is governed by Section 40510.

(e) In addition to providing notice as otherwise required, before adopting a regulation charging fees pursuant to this section, the district board shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the district board. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The district board may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the district board shall make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service. Any costs incurred by the district board in conducting the required meeting may be recovered from fees charged for the programs which were the subject of the meeting.

(f) The Legislature finds and declares that because districts vary greatly in their dependence on state and federal subvention programs, county and district property tax support, and permit fees, it is necessary to provide a transition period to develop an equitable funding mechanism for local districts. Subdivision (b) accordingly authorizes districts to adopt certain fee schedules only for fiscal years ending before July 1, 1986, unless a later enacted statute deletes or extends this date.

(g) The Legislative Analyst shall:

(1) Review the fee systems established pursuant to this section to determine their capability to finance the activities of districts.

(2) Evaluate the overall equity and reasonableness of the fees as they affect segments of industry and agriculture which pay the fees.

(3) Report his or her findings, and any recommended revisions, to the Legislature by October 1, 1983.

SEC. 2. It is the intent of the Legislature to reduce the uncertainty regarding the funding for air pollution control districts and air quality management districts and to maintain historic subvention levels from the Motor Vehicle Account of the State Transportation Fund for the period covered by the authorization provided by this act.

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

In order for this act, which extends the authorization for air pollution control districts and air quality management districts to establish certain annual fee schedules, to apply at the beginning of the 1984–85 fiscal year, it is necessary that it take effect immediately.

CHAPTER 626

An act to amend Sections 61391, 61405, 61411, 61572, and 62182 of the Food and Agricultural Code, relating to milk, and making an appropriation therefor.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 61391 of the Food and Agricultural Code is amended to read:

61391. Solicitation by, or collusion or joint participation between or among, any manufacturer, distributor, producer, wholesale customer, consumer, or any representative of any of them, to commit any of the unlawful practices which are prescribed in this article, or the use of any misrepresentation, threat, intimidation, or boycott to effectuate the commission of those unlawful practices, makes any person that participates in those unlawful practices subject to the penalties of this chapter.

SEC. 2. Section 61405 of the Food and Agricultural Code is amended to read:

61405. (a) Every manufacturing milk handler before purchasing any manufacturing milk from a producer shall execute and deliver to the director a surety bond, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. The amount of the bond shall be five thousand dollars ($5,000).

(b) Any milk purchase agreement between a handler and a producer may provide for surety bonds, guarantees, or other forms of security in addition to the bonding requirements in this article.

SEC. 3. Section 61411 of the Food and Agricultural Code is

amended to read:

61411. The purchase of any manufacturing milk from any producer is an unlawful trade practice unless that purchase complies with all of the requirements which are prescribed by this article. It also constitutes an unlawful trade practice if the contract between a manufacturing milk producer and a manufacturing milk handler does not include all of the following requirements:

(a) Approximately one-half of the milk delivered in any calendar month shall be paid for not later than the first day of the next following month

(b) The remainder of the milk delivered in that calendar month shall be paid for not later than the 15th day of that following month.

SEC. 4. Section 61572 of the Food and Agricultural Code is amended to read:

61572. Any person that violates any provision of this chapter is liable civilly in an amount not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) for each and every violation, that sum to be recovered by the director in any court of competent jurisdiction. The amount of penalty which is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of the violation upon effectuation of the purposes and provisions of this chapter. Any sum which is recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 5. Section 62182 of the Food and Agricultural Code is amended to read:

62182. (a) Every handler before purchasing any market milk from a producer shall execute and deliver to the director a surety bond, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. The minimum amount of the bond shall be based upon the average daily quantity of market milk purchased by the handler during any calendar month during a license year.

The minimum amount of the bond shall be as follows:

(1) One thousand dollars ($1,000) for any handler that purchases an average daily quantity of market milk of less than 100 gallons.

(2) Two thousand dollars ($2,000) for any handler that purchases an average daily quantity of at least 100 gallons but less than 200 gallons.

(3) Three thousand dollars ($3,000) for any handler that purchases an average daily quantity of at least 200 gallons but less than 300 gallons.

(4) Five thousand dollars ($5,000) for any handler that purchases an average daily quantity of 300 gallons or more.

(b) Any milk purchase agreement between a handler and a producer may provide for additional surety bonds, guarantees, or other forms of security in addition to the bonding requirements in this article.

CHAPTER 627

An act to amend Section 76 of the Penal Code, relating to public officers.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 76 of the Penal Code is amended to read:

76. Every person who knowingly and willingly threatens the life of any elected state official, exempt appointee of the Governor, or judge with the intent, and the apparent ability, to carry out that threat, is guilty of a public offense, punishable as follows:

(1) Upon a first conviction, the offense is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both fine and imprisonment.

(2) If the person has been previously convicted of a violation of this section, the previous conviction shall be charged in the accusatory pleading, and if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the offense is punishable by imprisonment in the state prison.

Any law enforcement agency which has knowledge of a violation of this section shall immediately report that information to the California State Police.

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

CHAPTER 628

An act to amend Sections 4456, 4456.1, and 9270 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 4456 of the Vehicle Code is amended to read:

4456. (a) When selling a vehicle, dealers, lessor-retailers, and remanufacturers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions:

(1) A copy of the report of sale shall be displayed on the vehicle before the vehicle is delivered to the purchaser.

(2) An application in proper form accompanied by all fees and penalties due for registration or transfer of registration of the vehicle shall be submitted to the department within 20 days from the date of sale. Penalties due for noncompliance with this paragraph shall be paid by the dealer, lessor-retailer, or remanufacturer. The dealer, lessor-retailer, or remanufacturer shall not charge the purchaser for the penalties.

(3) In the event that the department returns an application for correction or additional information and the application was first received within 20 days of the date of sale of the vehicle, a corrected application shall be submitted to the department within 40 days from the date of sale of the vehicle or within 20 days from the date the application is first returned by the department, whichever is later.

(4) In the event that the department returns an application for correction or additional information and the application was first received more than 20 days from date of sale of the vehicle, the corrected application shall be submitted to the department within 40 days from the date of sale of the vehicle.

(5) An application first received more than 40 days from the date of sale of the vehicle shall be subject to the penalties specified in subdivisions (a) and (b) of Section 4456.1.

(6) The sale shall be reported pursuant to Section 5901.

(b) A vehicle displaying a copy of the report of sale may be operated without license plates or registration card until the license plates and registration card are received by the purchaser.

SEC. 2. Section 4456.1 of the Vehicle Code is amended to read:

4456.1. (a) A dealer, lessor-retailer, or remanufacturer who violates paragraph (1), (2), or (6) of subdivision (a) of Section 4456 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer, lessor-retailer, or remanufacturer who violates paragraph (3), (4), or (5) of subdivision (a) of Section 4456 shall pay to the department an administrative service fee of twenty-five dollars ($25).

(c) Each violation of paragraph (1), (2), or (6) of subdivision (a) of Section 4456 is, in addition to the obligation to pay an administrative service fee, a separate cause for discipline pursuant to Section 11613 or 11705.

(d) Failure to comply with paragraph (3), (4), or (5) of subdivision (a) of Section 4456 is, in addition to the obligation to pay an administrative service fee, a separate cause for discipline pursuant

to Section 11613 or 11705.

(e) Nonpayment of an administrative service fee within 30 days after written demand from the department is a separate cause for discipline pursuant to Section 11613 or 11705.

SEC. 3. Section 9270 of the Vehicle Code is amended to read:

9270. The department may charge a service fee of not more than fifteen dollars ($15), in addition to other fees payable under this code, for the completion of an initial registration or transfer of registration of a vehicle within 72 hours after receipt of a complete and proper registration application. This service shall be available only at the department's headquarters office in Sacramento.

This section shall become operative on July 1, 1985.

CHAPTER 629

An act to add Chapter 6.5 (commencing with Section 1500) to Division 2 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Chapter 6.5 (commencing with Section 1500) is added to Division 2 of the Streets and Highways Code, to read:

CHAPTER 6.5. LIMITED MAINTENANCE HIGHWAY

1500. The board of supervisors may adopt standards for limited maintenance of county highways which have a low traffic volume.

CHAPTER 630

An act relating to teacher credentialing.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. The Legislature hereby finds and declares that there are significant problems with the program evaluation process which is currently being used to measure the effectiveness of approved teacher training programs. It is the intent of the Legislature to explore alternatives to the existing program evaluation process in order to assure the quality of approved teacher training programs.

On or before March 1, 1985, the Commission on Teacher Credentialing shall prepare and submit a report to the Legislature identifying at least three models of candidate-centered assessment to be used for the evaluation of the effectiveness of teacher training programs. The models shall include concentration in the areas of basic skills proficiency; personal affective capacities; pedagogy, including student teaching; and subject matter.

CHAPTER 631

An act to amend Sections 4000.1 and 4150.2 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 14, 1984. Filed with Secretary of State August 15, 1984.]

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

SECTION 1. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and upon registration of a motor vehicle previously registered outside this state which is subject to those provisions of the Health and Safety Code, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code or with Section 9889.18 or 9889.56 of the Business and Professions Code.

(b) With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, and having a gross vehicle weight of 8,500 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code control.

(d) Subdivision (a) does not apply to a transfer of ownership and registration under any of the following circumstances:

(1) The transferor is either the parent, grandparent, child, grandchild, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to

the proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(4) The transfer is between the lessor and lessee of the vehicle, if there is no change in the lessee or operator of the vehicle.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the department of that action.

SEC. 2. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and upon registration of a motor vehicle previously registered outside this state which is subject to those provisions of the Health and Safety Code, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code or with Section 9889.18 or 9889.56 of the Business and Professions Code.

(b) With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code control.

(d) Subdivision (a) does not apply to a transfer of ownership and registration under any of the following circumstances:

(1) The transferor is either the parent, grandparent, child, grandchild, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to the proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(4) The transfer is between the lessor and lessee of the vehicle, if there is no change in the lessee or operator of the vehicle.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the

department of that action.

SEC. 3. Section 4150.2 of the Vehicle Code is amended to read:

4150.2. Application for the original registration of a motorcycle shall be made by the owner to the department upon the appropriate form furnished by it, and shall contain all of the following:

(a) The true name and business or residence address of the owner, and the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the motorcycle, including the following data insofar as they may exist:

(1) The make and type of body.

(2) The motor and vehicle identification numbers recorded exactly as they appear on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.

(3) The date first sold by a manufacturer, remanufacturer, or dealer to a consumer.

(d) Any other information that may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to registration.

(e) The department shall maintain a cross-index file of motor and vehicle identification numbers registered with it.

SEC. 4. Section 2 of this bill incorporates amendments to Section 4000.1 of the Vehicle Code proposed by both this bill and AB 2299. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 4000.1 of the Vehicle Code, and (3) this bill is enacted after AB 2299, in which case Section 1 of this bill shall not become operative.

CHAPTER 632

An act to add Section 13108.6 to the Health and Safety Code, relating to fire protection.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 13108.6 is added to the Health and Safety Code, to read:

13108.6. The State Fire Marshal may adopt regulations specifying the access to roof areas of commercial establishments which firefighters shall have and may limit or restrict the use of razor wire fences, chain link fences, or any other fences which would obstruct that access.

For purposes of this section, "commercial establishment" shall not include any facility of a public utility.

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

CHAPTER 633

An act to amend Sections 4413 and 4423 of the Public Resources Code, relating to forests.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 4413 of the Public Resources Code is amended to read:

4413. "Zone A" includes Mono, Inyo, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial Counties.

SEC. 2. Section 4423 of the Public Resources Code is amended to read:

4423. A person shall not burn any brush, stumps, logs, fallen timber, fallows, slash, grass-covered land, brush-covered land, forest-covered land, or other flammable material, in any state responsibility area, area receiving fire protection by the department by contract, or upon federal lands administered by the United States Department of Agriculture or Department of the Interior, unless the person has a written permit from the department or its duly authorized representative or the authorized federal officer on federal lands administered by the United States Department of Agriculture or of the Interior and in strict accordance with the terms of the permit:

(a) At any time in Zone A.

(b) At any time in Zone B between May 1st and the date the director declares, by proclamation, that the hazardous fire conditions have abated for that year, or at any other time in Zone B during any year when the director has declared, by proclamation, that unusual fire hazard conditions exist in the area.

CHAPTER 634

An act to amend Section 434.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1984, for the Redwood Region and Pine-Mixed Conifer Region, and on January 1, 1985, for the Whitewood Subzone of the Redwood Region, and March 1 of each year thereafter, the value per acre of timberland zoned under the provisions of Section 51110 or Section 51113 of the Government Code shall be determined from the following schedule:

Redwood Region

Site I	$180
Site II	$150
Site III	$130
Site IV	$114
Site V (and inoperable)	$ 35

Pine-Mixed Conifer Region

Site I	$ 98
Site II	$ 69
Site III	$ 56
Site IV	$ 39
Site V (and inoperable)	$ 23

Whitewood Subzone of the Redwood Region

Site I	$130
Site II	$ 95
Site III	$ 80
Site IV	$ 60
Site V (and inoperable)	$ 30

For purposes of this section:

(1) "Redwood Region" means all those timberlands located in Del Norte, Humboldt, Sonoma, Marin, Monterey, Santa Cruz, and San Mateo Counties and that portion of Mendocino County which lies west and south of the main Eel River.

(2) "Whitewood Subzone of the Redwood Region" means that timberland located within the Redwood Region within which the assessor has determined that redwood did not exist as a species in the composition of the original timber stand, or which has not been replanted with redwood for commercial purposes.

(3) "Pine-Mixed Conifer Region" means all other timberlands outside the Redwood Region.

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, that timberland parcel or portion thereof shall be valued as if it is Site V.

(b) In 1985, the board shall determine the current value of timberland by the following process:

(1) For each fiscal year between July 1, 1979, and June 30, 1984, divide the total value of all timber harvested within the state, less miscellaneous forest products not reported by board foot volume, by the total volume of timber harvested, as reported pursuant to Section 38402. Average the five fiscal year values to obtain the five-year periodic immediate harvest value.

(2) For each fiscal year between July 1, 1978, and June 30, 1983, follow the same procedure as described in paragraph (1).

(3) Divide the value obtained by paragraph (1) by the value obtained by paragraph (2) to obtain the percentage change, rounded to the nearest one-tenth of 1 percent.

(4) Increase or decrease to the nearest dollar the full market values contained in subdivision (a) by one-half of the percentage change determined by paragraph (3).

(c) Beginning January 1, 1986, and each year thereafter, the board shall determine the current value of timberland using the same procedure as described in subdivision (b), except that such adjustment shall be made to the prior year's adjusted values, and the five-year periodic immediate harvest values shall be successively one year more recent.

(d) The board shall certify the values determined pursuant to this section to the county assessors by January 10 of each year.

(e) The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article XIII of the Constitution.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any property tax revenues lost by it under this act.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 635

An act to amend Section 21281 of, and to add Section 20760 to, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 20760 is added to the Food and Agricultural Code, to read:

20760. The fees or penalties prescribed in this article may be raised or lowered under one of the following conditions:

(a) Lowered by the director, based upon a finding and recommendation of the Livestock Identification Advisory Board, whenever they determine that the cost of administering and enforcing the provisions of this division may be maintained with a lower fee.

(b) Increased by an amount not to exceed 20 percent of the statutory fee, by the director upon the recommendation of the Livestock Identification Advisory Board whenever the board determines that the costs of administering and enforcing the provisions of this division require a greater fee. The advisory board shall approve any increase in fees by a two-thirds vote of its entire membership.

SEC. 2. Section 21281 of the Food and Agricultural Code is amended to read:

21281. All brand inspection fees are due and payable at the time of the inspection. The amount which is due for all inspections that are made shall be paid to the director within 30 days after the issuance of the brand inspection certificates by the inspector for the cattle which were inspected, unless there is on deposit with the bureau a bond in an amount and form which is approved by the chief or a cash deposit to cover the payment of the fees.

CHAPTER 636

An act to amend Section 4628 of the Public Resources Code, relating to forest practices.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 4628 of the Public Resources Code is amended to read:

4628. (a) Notwithstanding any provision of this article or of Section 4581, no public agency shall be required to submit a timber harvesting plan or file an application for conversion with the board where the purpose of its timber operations is to construct or maintain a right-of-way on its own or on any other public property.

(b) Removal of trees for subdivision development, except on lands zoned as a timberland production zone pursuant to Section 51112 or 51113 of, and as defined in subdivision (g) of Section 51104, of the Government Code, where the subdivision has had a tentative subdivision map approved and a subdivision use permit granted by the city or county having jurisdiction, may be exempted by regulation from the provisions of this article, if the exemption is consistent with the purposes of this chapter.

CHAPTER 637

An act to amend Sections 21104 and 21153 of the Public Resources Code, relating to environmental quality.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 21104 of the Public Resources Code is amended to read:

21104. Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the state lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The state lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made a written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project.

The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution

impact of the potential vehicular use of the highway or freeway.

SEC. 2. Section 21104 of the Public Resources Code is amended to read:

21104. Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the state lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The state lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made a written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project.

The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution impact of the potential vehicular use of the highway or freeway.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 3. Section 21153 of the Public Resources Code is amended to read:

21153. Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the local lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The local lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project. The local lead agency may charge and collect from the applicant a fee not to exceed the

actual costs of the consultations.

SEC. 4. Section 21153 of the Public Resources Code is amended to read:

21153. Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved. In the case of a project described in subdivision (c) of Section 21065, the local lead agency shall, upon the request of the applicant, provide for early consultation to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental impact report. The local lead agency may consult with persons identified by the applicant which the applicant believes will be concerned with the environmental effects of the project and may consult with members of the public who have made written request to be consulted on the project. A request by the applicant for early consultation shall be made not later than 30 days after the determination required by Section 21080.1 with respect to the project. The local lead agency may charge and collect from the applicant a fee not to exceed the actual costs of the consultations.

A responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation.

SEC. 5. Section 2 of this bill incorporates amendments to Section 21104 of the Public Resources Code proposed by both this bill and AB 2583. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21104 of the Public Resources Code, and (3) this bill is enacted after AB 2583, in which case Section 1 of this bill shall not become operative.

SEC. 6. Section 4 of this bill incorporates amendments to Section 21153 of the Public Resources Code proposed by both this bill and AB 2583. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21153 of the Public Resources Code, and (3) this bill is enacted after AB 2583, in which case Section 3 of this bill shall not become operative.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 638

An act to add Title 1.6D (commencing with Section 1789) to the Civil Code, relating to commercial transactions.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Title 1.6D (commencing with Section 1789) is added to the Civil Code, to read:

TITLE 1.6D. ELECTRONIC COMMERCE

ARTICLE 1. GENERAL PROVISIONS

1789. The Legislature hereby finds and declares that it is in the public interest that consumers have comprehensive knowledge of services available through electronic commerce and to that end hereby enacts the Electronic Commerce Act of 1984.

1789.1. This title may be cited as "The Electronic Commerce Act of 1984."

1789.2. For the purposes of this title, the following terms have the meanings expressed in this section:

(a) "Electronic commercial service" or "service" means an electronic shopping system to conduct the purchase of goods and services via a telecommunications network, but does not mean conventional voice-only telephone service, one-way television or radio broadcasting, an electronic fund transfer system, or a service provided through an electronic terminal located at a place of business where the sale of goods or services sold through that service otherwise occurs.

(b) "Consumer" means a natural person who purchases goods or services using an electronic commercial service.

(c) "Provider of service" means a person who contracts with consumers to provide an electronic commercial service.

1789.3. The provider of an electronic commercial service shall provide to consumers with which it contracts to provide the service, at the time it contracts to provide the service, all of the following information:

(a) The name, address, and telephone number of the provider of service.

(b) Any charges to the consumer imposed by the provider for the use of the service.

(c) The procedures a consumer may follow in order to resolve a complaint regarding the service or to receive further information regarding use of the service, including the telephone number and address of the Complaint Assistance Unit of the Division of

Consumer Services of the Department of Consumer Affairs.

1789.5. (a) Any provider who knowingly and willfully violates any provision of this title is liable for a civil penalty not to exceed five thousand dollars ($5,000) which may be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney or city attorney, or by a city prosecutor in any city or city and county having a full-time city prosecutor, in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

1789.6. Nothing in this title shall be construed to limit the liability of a provider of service to a consumer for errors or omissions arising from the operation of an electronic commercial service.

1789.7. (a) This title does not apply where it is inconsistent with, or infringes upon, federal law or regulation.

(b) This title does not apply to the rights and obligations of a cardholder and a card issuer with respect to the use of a credit card arising from the purchase of goods or services conducted through an electronic commercial service. For the purpose of this subdivision, "cardholder," "card issuer," and "credit card" have the same meaning as those terms are given in the federal Fair Credit Billing Act (15 U.S.C. Sec. 1601 et seq.) and regulations adopted thereunder, or, if applicable, the Song-Beverly Credit Card Act of 1971 (Title 1.3 (commencing with Section 1747)).

(c) This title does not apply to the rights and obligations of a consumer and a financial institution with respect to any electronic fund transfer arising from purchase of goods or services conducted through an electronic commercial service. For the purposes of this subdivision, "consumer," "financial institution," and "electronic fund transfer" have the same meaning as those terms are given in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1601 et seq.) and regulations adopted thereunder.

1789.8. This title applies to transactions entered into on or after July 1, 1985.

CHAPTER 639

An act to add Section 654.2 to the Business and Professions Code, relating to health.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 654.2 is added to the Business and Professions Code, to read:

654.2. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient that there is such an interest and advises the patient regarding other alternative services, if available.

(b) Where referrals, billings, or other solicitations are between licensees who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, a single disclosure statement disclosing that interest and advising the patient of alternative services shall be deemed compliance with subdivision (a).

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(2) "Significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Twenty-five thousand dollars ($25,000).

This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

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

CHAPTER 640

An act to add Section 742.1 to the Insurance Code, relating to health coverage, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 742.1 is added to the Insurance Code, to read:

742.1. (a) Any person or other entity or arrangement in this state that is organized for the purpose of offering or providing coverage in this state, for the benefit of employees of two or more employers, for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric services, whether that coverage is by direct payment, reimbursement, or otherwise, is subject to the jurisdiction of the department.

(b) Any person or entity subject to regulation under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code shall not be subject to the provisions of this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There are entities presently operating in this state which provide insurance coverage but which are not presently regulated. In order to protect the consumers of this state it is necessary for this act to take effect immediately.

CHAPTER 641

An act to amend Sections 32518, 38671, 38703, 38801, and 61933 of, to amend the heading of Article 32 (commencing with Section 38801) of Chapter 5 of Part 3 of Division 15 of, to amend and renumber Sections 38672 and 38802 of, and to add Sections 38672 and 38802 to, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 32518 of the Food and Agricultural Code is amended to read:

32518. Notwithstanding Section 32517, the term "sterilization" or "sterilized" may be used to describe milk and milk products processed under conditions equivalent to sterile processing and aseptically packaged in hermetically sealed containers for sale under refrigerated conditions.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2. Section 38671 of the Food and Agricultural Code is amended to read:

38671. Sour cream is pasteurized market cream which has been fermented by the addition of pure cultures of one or more strains of lactic acid bacteria so that the product contains not less than 0.20 percent acidity expressed as lactic acid. It may contain added milk solids which are derived from market milk, salt, harmless edible stabilizers, emulsifiers, and coagulating enzymes, not to exceed six-tenths of 1 percent by weight. Sour cream shall otherwise conform to all requirements for market cream, except those which pertain to bacteria count. Sour cream shall contain not more than 10 coliform bacteria per milliliter.

SEC. 3. Section 38672 of the Food and Agricultural Code is amended and renumbered to read:

38673. Sour cream shall be labeled with the name and address of the manufacturer or the distributor and may be labeled "sour cream", "sour market cream", or "cultured market cream".

If sour cream contains distinctive flavoring, the label shall clearly identify the flavoring.

SEC. 4. Section 38672 is added to the Food and Agricultural Code, to read:

38672. (a) Sour cream may contain distinctive flavorings composed of seasonings, fruits, vegetables, seafood, meat, cheeses, or spices.

(b) When distinctive flavorings are added to sour cream, it shall contain not less than 16 percent milk fat.

SEC. 5. Section 38703 of the Food and Agricultural Code is amended to read:

38703. At the time of sale to consumers, sour cream dressing shall be in containers of at least ½-gallon or 4-pound capacity.

SEC. 6. The heading of Article 32 (commencing with Section 38801) of Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code is amended to read:

Article 32. Sour Half-and-Half or Light Sour Cream

SEC. 7. Section 38801 of the Food and Agricultural Code is amended to read:

38801. Sour half-and-half or light sour cream is a pasteurized market milk product which has been fermented by the addition of pure cultures of one or more strains of lactic acid bacteria so that the

product contains a minimum of 0.20 percent acidity calculated as lactic acid. It may contain added milk solids which are derived from market milk, salt, harmless edible stabilizers, emulsifiers, or coagulating enzymes not to exceed six-tenths of 1 percent by weight. It shall contain not less than 10.5 percent, or more than 12 percent, milk fat.

SEC. 8. Section 38802 of the Food and Agricultural Code is amended and renumbered to read:

38803. Sour half-and-half or light sour cream shall otherwise conform to all requirements for half-and-half, except those pertaining to bacteria count. It shall contain not more than 10 coliform per milliliter.

It shall be labeled with the name of the product and the name and address of the manufacturer or distributor. If sour half-and-half or light sour cream contains distinctive flavoring, the label shall clearly identify the flavoring.

SEC. 9. Section 38802 is added to the Food and Agricultural Code, to read:

38802. (a) Sour half-and-half or light sour cream may contain distinctive flavorings composed of seasonings, fruits, vegetables, seafood, meat, cheeses, or spices.

(b) When distinctive flavorings are added to sour half-and-half or light sour cream, it shall contain not less than 9.4 percent milk fat.

SEC. 10. Section 61933 of the Food and Agricultural Code is amended to read:

61933. Class 2 comprises any market milk, market skim milk, or market cream used in the manufacture of market cream, homogenized market cream, sour cream, sour cream dressing, sour half-and-half or light sour cream, uncreamed, creamed, or partially creamed cottage cheese, and buttermilk. Class 2 also comprises any market milk, market skim milk, or market cream used in the manufacture of any product for which a definition and standard is prescribed in Division 15 (commencing with Section 32501), except any such product which is included in class 1, class 3, class 4a or class 4b.

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

CHAPTER 642

An act to amend Sections 922.4 and 922.5 of the Insurance Code, relating to insurance.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 922.4 of the Insurance Code is amended to read:

922.4. Credit in accounting and financial statements on account of reinsurance ceded to a nonadmitted reinsurer other than an alien reinsurer shall be allowed only:

(a) Where it is demonstrated by the ceding insurer to the satisfaction of the commissioner that such reinsurer maintains the standards and meets the financial requirements applicable to an admitted insurer, or

(b) To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. With respect to credit life insurance and credit disability insurance, such deposits or funds shall be deposited in a bank located in California, notwithstanding the fact that the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims, unearned premium, and all other policy and contract liabilities and reserve obligations to be made by a foreign reinsurer in connection with its liability under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued and maintained under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (b), and that it shall be (1) issued or confirmed by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, or (2) issued by a California state chartered bank which is insured by the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner. For purposes of this subdivision, a confirming bank undertakes the identical terms and obligations of the issuer including those set forth herein. The changes enacted to this subdivision at the

1982 Regular Session shall apply only to life insurers.

As used in this section, the terms "deposits" and "funds" include securities authorized as general investments by Article 3 (commencing with Section 1170) of Chapter 2, but not to exceed current market value.

SEC. 2. Section 922.5 of the Insurance Code is amended to read:

922.5. Credit in accounting and financial statement permitted by this code on account of reinsurance ceded to an alien reinsurer other than one which complies with Article 2 (commencing with Section 1580) of Chapter 4 and includes in the statements required by that article all reserves and liabilities arising out of such reinsurance shall be allowed only:

(a) To the extent of the amount of deposits by, and funds withheld from, such alien reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System, if withdrawals from the trust cannot be made without the consent of the ceding insurer, or

(b) Where such alien reinsurer maintains sufficient assets in the United States for the protection of policyholders in the United States and operates its business in such manner as to satisfy the commissioner that it maintains standard and financial condition reasonably comparable to those required of admitted insurers and that it is able to pay losses in the United States.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims, unearned premium, and all other policy and contract liabilities and reserve obligations to be made by an alien reinsurer in connection with its liability under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued and maintained under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (a), and that it shall be (1) issued or confirmed by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, or (2) issued by a California state chartered bank which is insured by the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner. For purposes of this subdivision, a confirming bank undertakes the identical terms and obligations of the issuer including those set forth herein. The changes enacted to this subdivision at the 1982 Regular Session shall apply only to life insurers.

CHAPTER 643

An act to add Section 17509 to the Business and Professions Code, relating to advertising.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 17509 is added to the Business and Professions Code, to read:

17509. (a) Any advertisement soliciting the purchase or lease of a product or service, or any combination thereof, that requires, as a condition of sale, the purchase or lease of a different product or service, or any combination thereof, shall conspicuously disclose in the advertisement the price of all such products or services. This requirement shall not in any way affect the provisions of Sections 16726 and 16727 of the Business and Professions Code, with respect to unlawful buying arrangements.

(b) Subdivision (a) does not apply to any of the following:

(1) Contractual plans or arrangements complying with this paragraph under which the seller periodically provides the consumer with a form or announcement card which the consumer may use to instruct the seller not to ship the offered merchandise. Any instructions not to ship merchandise included on the form or card shall be printed in type as large as all other instructions and terms stated on the form or card. The form or card shall specify a date by which it shall be mailed by the consumer (the "mailing date") or received by the seller (the "return date") to prevent shipment of the offered merchandise. The seller shall mail the form or card either at least 25 days prior to the return date or at least 20 days prior to the mailing date, or provide a mailing date of at least 10 days after receipt by the consumer, except that whichever system the seller chooses for mailing the form or card, shall be calculated to afford the consumer at least 10 days in which to mail his form or card. The form or card shall be preaddressed to the seller so that it may serve as a postal reply card or, alternatively, the form or card shall be accompanied by a return envelope addressed to seller. Upon the membership contract or application form or on the same page and immediately adjacent to the contract or form, and in clear and conspicuous language, there shall be disclosed the material terms of the plan or arrangement including all of the following:

(A) That aspect of the plan under which the subscriber shall notify the seller, in the manner provided for by the seller, if the seller does not wish to purchase or receive the selection.

(B) Any obligation assumed by the subscriber to purchase a minimum quantity of merchandise.

(C) The right of a contract-complete subscriber to cancel his or

her membership at any time.

(D) Whether billing charges will include an amount for postage and handling.

(2) Other contractual plans or arrangements not covered under subdivision (a), such as continuity plans, subscription arrangements, standing order arrangements, supplements and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive that merchandise on a periodic basis.

(c) This section shall not apply to the publisher of any newspaper, periodical, or other publication, or any radio or television broadcaster, or the owner or operator of any cable, satellite, or other medium of communication who broadcasts or publishes an advertisement or offer in good faith, without knowledge of its violation of subdivision (a).

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

CHAPTER 644

An act to amend Section 1064 of the Government Code, and to amend Section 467 of, and to add Section 186 to, the Military and Veterans Code, relating to military affairs, and making an appropriation therefor.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 1064 of the Government Code is amended to read:

1064. No member of the governing board of a school district shall be absent from the state for more than 60 days, except in any of the following situations:

(a) Upon business of the school district with the approval of the board.

(b) With the consent of the governing board of the school district for an additional period not to exceed a total absence of 90 days.

(c) For federal military deployment not to exceed six months as a member of the armed forces of the United States or the California National Guard.

In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the governing board of the school district for an additional period not to exceed 30 days.

SEC. 2. Section 186 is added to the Military and Veterans Code, to read:

186. The Adjutant General may conduct a study to determine the feasibility of establishing a California National Guard memorial cemetery on state-owned property at Camp San Luis Obispo to serve as an interment site for members who have served at least 20 years in the National Guard and were discharged under honorable conditions or who were killed in the line of duty while serving on state or federal active duty, and for the spouses of these members.

SEC. 3. Section 467 of the Military and Veterans Code is amended to read:

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his hand directed to any sheriff, marshal, or constable of the county, commanding him or her to levy and collect the fines and penalties, together with the costs, upon and out of the property of the person against whom the fine or penalty is imposed. The warrant shall be executed and renewed in the same manner as executions from the justices' courts.

All fines collected under this section or imposed and collected under Section 450.1 shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and shall be deposited by the commanding officer into the AWOL Abatement Program Fund, which is hereby created in the State Treasury. All money in the AWOL Abatement Program Fund is hereby appropriated to the Military Department for the 1983–84, 1984–85, and 1985–86 fiscal years for programs to reduce the rate of absence without leave among members of the California National Guard.

CHAPTER 645

An act to amend Sections 17048, 19452, 25663d, and 26424 of, to amend and renumber Sections 24516, 24517, 24518, and 24519 of, and to add Sections 24515, 24517, and 24707 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 17048 of the Revenue and Taxation Code is amended to read:

17048. (a) In lieu of the tax imposed under Section 17041, individuals with taxable income of such amounts as prescribed by the Franchise Tax Board, shall compute their taxes under tax tables prescribed by the Franchise Tax Board. The tax tables shall reflect the tax imposed under Section 17041 in income progressions of not less than one hundred dollars ($100), giving effect to the marital or other status of the individual. For purposes of this part, the tax imposed by this section shall be treated as tax imposed by Section 17041.

(b) Subdivision (a) shall not apply to any of the following:

(1) An individual to whom Article 1 (commencing with Section 18241) of Chapter 15 (relating to income averaging) applies for the taxable year.

(2) An individual to whom Section 17085 (relating to distributions received from qualified pension, profit-sharing and stock bonus plans, and employee annuities) applies for the taxable year.

(3) An individual making a return under Section 443(a)(1) of the Internal Revenue Code for a period of less than 12 months on account of a change in annual accounting period.

(4) An estate or trust.

SEC. 2. Section 19452 of the Revenue and Taxation Code is amended to read:

19452. (a) In the determination of any case arising under this part, the rule of res judicata is applicable only if the liability involved is for the same year as was involved in another case previously determined.

(b) Notwithstanding the holding in Pope Estate Company v. Johnson, 43 Cal. App. 2d 170, in any action filed pursuant to Section 19082 (relating to taxpayer suits for refund), in addition to the defenses or relief sought in the action, the Franchise Tax Board shall assert in defense only those unpaid liabilities of the taxpayer for the same year which are evidenced by any of the following:

(1) A final proposed assessment.

(2) A notice of tax due.

(3) A final notice of action.

In addition, any refund claim of a taxpayer for the same year resulting from a federal audit adjustment made subsequent to the filing of the action need not be asserted by the taxpayer in that action.

SEC. 3. Section 24515 is added to the Revenue and Taxation Code, to read:

24515. If a corporation adopts a plan of complete liquidation, and if Section 24512 does not apply to sales or exchanges of property by the corporation, solely by reason of the application of subdivision (b) of Section 24514, then for the first taxable year of any shareholder

(other than a corporation which meets the 80 percent stock ownership requirement specified in paragraph (1) of subdivision (b) of Section 24502) in which it receives a distribution in complete liquidation—

(a) The amount realized by the shareholder on the distribution shall be increased by its proportionate share of the amount by which the tax imposed by this part on the corporation would have been reduced if subdivision (b) of Section 24514 had not been applicable, and

(b) For purposes of this part, the shareholder shall be deemed to have paid, on the last day prescribed by law for the payment of the tax imposed by this part on the shareholder for the taxable year, an amount of tax equal to the amount of the increase described in subdivision (a).

SEC. 4. Section 24516 of the Revenue and Taxation Code is amended and renumbered to read:

24520. (a) For purposes of this chapter, a distribution shall be treated as in complete liquidation of a corporation if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

(b) The Franchise Tax Board shall prescribe such regulations as may be necessary to ensure that the purpose of subsections (a) and (b) of Section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of Sections 24512, 24513, 24514, 24517, 24521, 24532, and 24533, or any other provision of law or regulations.

SEC. 5. Section 24517 of the Revenue and Taxation Code is amended and renumbered to read:

24516. If—

(a) There is an involuntary conversion (within the meaning of Section 24943) of property of a distributing bank or corporation and there is a complete liquidation of such corporation which qualifies under Section 24511, and

(b) The disposition of the converted property (within the meaning of Section 24943) occurs during the 60-day period which ends on the day before the first day of the 12-month period, and

(c) Such bank or corporation elects the application of the section at such time and in such manner as the Franchise Tax Board may prescribe, then for purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period.

SEC. 6. Section 24517 is added to the Revenue and Taxation Code, to read:

24517. (a) In the case of a corporation inventorying goods under the LIFO method, Sections 24512, 24513, 24514, 24516, and 24518 shall apply to gain from the sale or exchange of inventory assets (which under subdivision (b) of Section 24513 constitutes property) only to the extent that the gain exceeds the LIFO recapture amount with respect to those assets.

(b) The terms used in this section shall have the same meaning as when used in subdivision (b) of Section 24511.

SEC. 7. Section 24518 of the Revenue and Taxation Code is amended and renumbered to read:

24519. (a) For purposes of this part, if a purchasing corporation makes an election under this section (or is treated under subdivision (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

(1) Shall be treated as having sold all of its assets at the close of the acquisition date in a single transaction to which Sections 24512, 24513, 24514, and 24517, apply, and

(2) Shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

(b) (1) For purposes of subdivision (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

(A) The grossed-up basis of the purchasing corporation's stock in the target corporation on the acquisition date.

(B) Properly adjusted under regulations prescribed by the Franchise Tax Board for liabilities of the target corporation and other relevant items.

(2) For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the purchasing corporation's stock in the target corporation on the acquisition date multiplied by a fraction—

(A) The numerator of which is 100 percent, and

(B) The denominator of which is the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date.

(3) The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Franchise Tax Board.

(c) (1) If during the one-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying Sections 24512, 24513, 24514, and 24517 for purposes of paragraph (1) of subdivision (a), the nonrecognition of gain or loss shall be limited to an amount determined by applying that maximum percentage to that gain or loss. The preceding sentence shall not apply if the target corporation is liquidated during that one-year period.

(2) If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under paragraph (3) of subdivision (b) of Section 24455 (determined without regard to the application of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (c) of Section 24455), Section 24511 shall apply to that distribution as if it were a distribution in complete liquidation.

(d) For purposes of this section—

(1) The term "purchasing corporation" means any corporation which makes a qualified stock purchase of stock of another corporation.

(2) The term "target corporation" means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

(3) The term "qualified stock purchase" means any transaction or series of transactions in which stock of one corporation possessing—

(A) At least 80 percent of total combined voting power of all classes of stock entitled to vote, and

(B) At least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), is acquired by another corporation by purchase during the 12-month acquisition period.

(e) (1) A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

(2) Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

(A) That acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

(B) The basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of that property in the hands of the person from whom acquired,

(C) That acquisition was before September 1, 1982.

(D) To the extent provided in regulations, the property acquired is located outside the United States, or

(E) That acquisition is described in regulations prescribed by the Franchise Tax Board.

(3) Whenever necessary to carry out the purpose of this subdivision and subdivision (f), the Franchise Tax Board may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of paragraph (3) of subdivision (d) as qualified stock purchases.

(f) If a purchasing corporation makes qualified stock purchases with respect to the target corporation and one or more target affiliates during any consistency period, then (except as otherwise provided in subdivision (e))—

(1) Any election under this section with respect to the first such purchase shall apply to each other such purchase, and

(2) No election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

(g) (1) Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

(2) An election by the purchasing corporation under this section

shall be made in such manner as the Franchise Tax Board shall by regulations prescribe.

(3) An election by a purchasing corporation under this section, once made, shall be irrevocable.

(h) For purposes of this section—

(1) The term "12-month period" means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

(2) The term "acquisition date" means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of that corporation.

(3) (A) The term "purchase" means any acquisition of stock, but only if—

(i) The basis of the stock in the hands of the purchasing corporation is not determined,

(I) In whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or

(II) Under Section 18032 (relating to property acquired from a decedent),

(ii) The stock is not acquired in an exchange to which Section 24521 applies, and

(iii) The stock is not acquired from a person the ownership of whose stock would, under Section 24497 (other than subdivision (d) thereof), be attributed to the person acquiring that stock.

(B) If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of that acquisition, the corporation making that purchase is treated (by reason of Section 24497) as owning stock in a third corporation, the corporation making that purchase shall be treated as having purchased that stock in that third corporation. The corporation making that purchase shall be treated as purchasing stock in the third corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under Section 24497 as owning that stock.

(4) (A) Except as provided in subparagraph (B), the term "consistency period" means the period consisting of—

(i) The one-year period before the beginning of the 12-month acquisition period for the target corporation,

(ii) That acquisition period (up to and including the acquisition date), and

(iii) The one-year period beginning on the date after the acquisition date.

(B) The period referred to in subparagraph (A) shall also include any period during which the Franchise Tax Board determines that there was in effect a plan to make a qualified stock purchase plus one of more other qualified stock purchases (or asset acquisitions described in subdivision (e)) with respect to the target corporation or any target affiliate.

(5) The term "affiliated group" has the meaning given to such term by Section 1504(a) of the Internal Revenue Code (determined

without regard to the exceptions contained in Section 1504(b) of the Internal Revenue Code).

(6) (A) A corporation shall be treated as a target affiliate of the target corporation if each of those corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

(B) Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

(i) The term "target affiliate" does not include a foreign corporation, and

(ii) Stock held by a target affiliate in a foreign corporation shall be excluded from the operation of this section.

(7) Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

(8) Except as otherwise provided in paragraph (9) or in regulations prescribed under this paragraph, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in paragraph (1) of subdivision (a).

(9) (A) Under regulations prescribed by the Franchise Tax Board, an election may be made under which if—

(i) The target corporation was, before the transaction, a member of the selling consolidated group, and

(ii) The target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction, then the target corporation shall be treated as a member of the selling consolidated group with respect to that sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group.

(B) For purposes of subparagraph (A), the term "selling consolidated group" means any group of corporations which (for the taxable period which includes the transaction)—

(i) Includes the target corporation, and

(ii) Files a combined return.

(i) The Franchise Tax Board shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them at stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the combined return regulations).

SEC. 8. Section 24519 of the Revenue and Taxation Code is amended and renumbered to read:

24518. If a corporation completely liquidates pursuant to a plan of complete liquidation adopted in a Title 11 or similar case (within the meaning of paragraph (1) of subdivision (d) of Section 24562).

(a) For purposes of Section 24512, the term "property" shall not include any item acquired on or after the date of the adoption of the plan of liquidation if such item is not property within the meaning of subdivision (b) of Section 24513, and

(b) Section 24512 shall apply to sales and exchanges by the corporation of property within the period beginning on the date of the adoption of the plan and ending on the date of the termination of the case.

SEC. 9. Section 24707 is added to the Revenue and Taxation Code, to read:

24707. The Franchise Tax Board shall permit the use of suitable published governmental indexes in such manner and circumstances as determined by the Franchise Tax Board for purposes of the method described in Section 24703.

SEC. 10. Section 25663d of the Revenue and Taxation Code is amended to read:

25663d. If any corporation initiates a motion to quash a subpoena, as provided by Sections 7465 through 7476, inclusive, of the Government Code, and that corporation is the corporation with respect to whose liability the subpoena is issued (or is the agent, nominee, or other person acting under the direction or control of that corporation), then the running of any period of limitations under Section 25663 (relating to deficiency assessments) or under Section 25731 (relating to false or fraudulent returns) or Section 25964 (relating to criminal prosecutions) with respect to that corporation shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of that subpoena is pending.

SEC. 11. Section 26424 of the Revenue and Taxation Code is amended to read:

26424. (a) In the determination of any issue of law or fact under this part, neither the Franchise Tax Board, nor any officer or agency having any administrative duties under this part nor any court shall be bound by the determination of any other officer or administrative agency of the state.

(b) In the determination of any case arising under this part, the rule of res judicata is applicable only if the liability involved is for the same year as was involved in another case previously determined under this part.

(c) Notwithstanding the holding in Pope Estate Company v. Johnson, 43 Cal. App. 2d 170, in any action filed pursuant to Section 26102 (relating to taxpayer suits for refund), in addition to the defenses or relief sought in the action, the Franchise Tax Board shall assert in defense only those unpaid liabilities of the taxpayer for the same year which are evidenced by any of the following:

(1) A final proposed assessment.

(2) A notice of tax due.

(3) A final notice of action.

In addition, any refund claim of a taxpayer for the same year

resulting from a federal audit adjustment made subsequent to the filing of the action need not be asserted by the taxpayer in that action.

SEC. 12. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 646

An act to amend Section 12501.3 of, to repeal and add Chapter 7 (commencing with Section 12700) of, to repeal Section 12107.5 of, and to repeal Chapter 7.3 (commencing with Section 12740) and Chapter 7.7 (commencing with Section 12770) of, Division 5 of the Business and Professions Code, relating to weights and measures, and making an appropriation therefor.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 12107.5 of the Business and Professions Code is repealed.

SEC. 2. Section 12501.3 of the Business and Professions Code is amended to read:

12501.3. Notwithstanding any other requirements or provisions of this division, a sealer may permit the use of an unsealed device pending repairs if the device is in error only to the disadvantage of the user and if the user is always the seller. Such an unsealed device shall be repaired within 30 days.

SEC. 3. Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code is repealed.

SEC. 4. Chapter 7 (commencing with Section 12700) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 7. WEIGHMASTERS

12700. A weighmaster is any person who, for hire or otherwise, weighs, measures, or counts any commodity and issues a statement or memorandum of the weight, measure, or count which is used as the basis for either the purchase or sale of that commodity or charge for service.

12700.5. (a) A weighmaster is not required to provide weighing services to the general public.

(b) Weighing for hire is at the discretion of the weighmaster.

12701. The following persons are not weighmasters:

(a) Retailers weighing, measuring, or counting commodities for sale by them in retail stores in the presence of, and directly to, consumers.

(b) Except for persons subject to Section 12730, producers of agricultural commodities or livestock, who weigh commodities produced or purchased by them or by their producer neighbors, when no charge is made for the weighing, or when no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based.

(c) Common carriers issuing bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Milk samplers and weighers licensed pursuant to Article 8 (commencing with Section 35161) of Chapter 12 of Part 1 of Division 15 of the Food and Agricultural Code, when performing the duties for which they are licensed.

(e) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(f) Newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(g) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of those establishments.

(h) Garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code, county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, and solid waste facilities, as defined in Section 66720.1 of the Government Code.

(i) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit recycling program.

(j) Pest control operators licensed pursuant to Chapter 4 (commencing with Section 11701) of Division 6 of the Food and Agricultural Code.

(k) Retailers weighing, measuring, or counting salvage or returnable materials for purchase or redemption by them in retail stores directly from and in the presence of the seller. "Retailer" means an entity which derives 90 percent or more of its income from the sale of small quantities of food or nonfood items, or both, directly to consumers. "Salvage materials" means used paper products and used containers made of aluminum, tin, glass, or plastic.

12702. "Weighmaster," when used without qualification, includes a deputy weighmaster.

12703. Except as provided in Section 12701, no person shall perform any acts described in Section 12700, unless licensed as a weighmaster pursuant to this chapter and unless the current license fee and any penalty has been paid.

12704. (a) A weighmaster shall pay to the department the following license fee for each license year as applicable to the

operation:

(1) Fifty dollars ($50) if the weighmaster is operating at a fixed location.

(2) Twenty dollars ($20) for each additional fixed location the weighmaster is operating at.

(3) Two hundred dollars ($200) if the weighmaster is operating at other than a fixed location.

(4) Ten dollars ($10) for each deputy weighmaster.

(b) "License year" means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the director for expiration of the license, or yearly intervals after the first renewal.

(c) "Location" means a premise on which weighing, measuring, or counting devices are used.

12705. Any change in the legal entity of a licensed weighmaster requires the new legal entity to obtain a weighmaster license before operating as a weighmaster.

12706. (a) The director may assign or reassign dates for the expiration of licenses for any weighmaster.

(b) The director may establish a license year for any weighmaster consisting of any period from one month to 11 months, inclusive, with subsequent renewals being required at yearly intervals thereafter.

(c) Whenever the license year is less than 12 months by reason of the assignment or reassignment of the expiration date by the director, the license fee as designated in Section 12704 shall be decreased by one-twelfth of the annual fee for each month of the period less than 12 months.

12707. Each license required by this chapter shall be renewed annually, on or before the first day of the first month of the licensee's license year, by application to the director, accompanied by the annual license fee. To any fee not paid when due, there shall be added a penalty equal to the amount of the license fee, except that no penalty shall be applicable to the renewal of deputy weighmaster licenses.

12708. The director may refuse to grant any license provided for by this chapter, or may refuse to renew any license, and may revoke or suspend any license when, after a hearing conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the director is satisfied that the applicant or licensee is not qualified to capably or reliably perform the duties of a weighmaster or has otherwise been found guilty of a misdemeanor as provided in this chapter.

12709. All license fees collected pursant to this chapter shall be deposited in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of this chapter.

12710. A weighmaster may employ or designate any person to act for him or her as a deputy weighmaster and shall be responsible for all acts performed by that person. The weighmaster shall forward to

the department the name of deputy weighmasters so designated, along with the fees required by Section 12704.

12711. A weighmaster shall issue a weighmaster certificate whenever payment for the commodity or service represented is dependent on a written or printed weight, measure, or count.

12712. (a) A weighmaster certificate may be signed and issued by a weighmaster other than the weighmaster actually determining the weight, measure, or count of any commodity, if both of the following conditions are met:

(1) The weighmaster issuing the certificate does so based on information received from the weighmaster who actually determined the weight, measure, or count and both are on the same principal license.

(2) The records and worksheets, signed by the weighmaster who actually weighed, measured, or counted the commodity, are maintained as a part of the weighmaster's records in a manner so as to ensure their identity with the certificate issued.

(b) A weighmaster may transfer a weight, measure, or count appearing on a weighmaster certificate to another weighmaster certificate, if the original certificate number and name of the issuing weighmaster appear on the second certificate.

12713. (a) A weighmaster is responsible for ensuring that the weighmaster certificates issued by him or her, or a deputy acting for him or her, are complete and contain all the information required by Sections 12714, 12714.5, and 12715 that is applicable to each transaction.

(b) It is unlawful to issue, or cause to be issued, a weighmaster certificate if the certificate does not contain all the information required by Sections 12714, 12714.5, and 12715 for the commodity weighed. The issuance of a receipt showing the weight of fish, mollusks, or crustaceans pursuant to Article 6 (commencing with Section 8010) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code constitutes the issuance of a weighmaster certificate under this chapter when issued by a person who is a weighmaster pursuant to Section 12700.

12714. (a) There shall appear in an appropriate and conspicuous place on each certificate, and all copies thereof, the following legend:

WEIGHMASTER CERTIFICATE

THIS IS TO CERTIFY that the following described commodity was weighed, measured, or counted by a weighmaster, whose signature is on this certificate, who is a recognized authority of accuracy, as prescribed by Chapter 7 (commencing with Section 12700) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the California Department of Food and Agriculture.

(b) There shall also appear on each certificate, and all copies

thereof, the printed name of the principal weighmaster as it appears on the license.

12714.5. All information contained on the certificate shall be clear and legible.

Each certificate shall be numbered consecutively.

12715. Each certificate shall provide for the following information as applicable to the transaction:

(a) The date on which the weight, measure, or count was determined.

(b) The address or location where the weighing, measuring, or counting occurred.

(c) The complete signature of the weighmaster who determined each weight, measure, or count. The name of a weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature, if the electronically imprinted name is that of the weighmaster who weighed, measured, or counted the commodity or that of another weighmaster pursuant to Section 12712.

(d) The kind of commodity and any other information that may be necessary to identify the product or distinguish it from a similar commodity.

(e) The number of units of the commodity. If not personally determined by a weighmaster, the certificate shall contain the words "driver's count" or "loader's count," as appropriate, after the number of commodity units. The abbreviation "D.C." or "L.C." may be used in lieu of the complete words.

(f) The name of the owner, or his or her agent, and the consignee.

(g) At least one of the following:

(1) The gross weight of the commodity and the vehicle or container, if only the gross weight was determined.

(2) The tare weight of the unladen vehicle or container, if only the tare weight was determined.

(3) The gross, tare, and net weights when a gross and tare are used in determining the net weight.

(4) The true net weight, measure, or count when no gross and tare weights are involved in determining the net quantity of the product.

(h) The tare weights, and the code identification or description of boxes, bins, pallets, or other containers.

(i) The correct identification of the vehicle, combination of vehicles, or other means by which the commodity was delivered. If an equipment number is used to identify a vehicle or combination of vehicles, there shall be traceability to the registered vehicle license numbers through the weighmaster's records.

(j) The unit of measure, such as pounds, tons, gallons, kilograms, or cubic yards, used to identify the quantity.

12715.5. Pursuant to former Sections 12715, 12752, and 12785,

weighmaster certificates in use on December 31, 1984, may be used until the next printing, but not later than January 1, 1988.

12716. All weighmasters shall keep and preserve, as records, for a period of four years, all copies of voided certificates and true copies of all weighmaster certificates issued. These records shall, at all times, be open for inspection by the director.

12716.5. A certificate on which a weight, measure, or count error is discovered after issuance shall be corrected by issuing a correction certificate to all parties who were issued the original certificate.

The word "INCORRECT" shall be written across the face of the original certificate. The original certificate number and reason for the correction shall be recorded on the correction certificate.

12717. Any weighing, measuring, or counting instrument or device, as defined in Section 12500, which is used by a weighmaster and for which specifications and tolerances have been adopted by the director, shall be approved, tested, and sealed in accordance with this division.

12718. Any person who does any of the following acts is guilty of a misdemeanor:

(a) Requests any person to weigh, measure, or count any commodity falsely or incorrectly.

(b) Requests a false or incorrect weighmaster certificate.

(c) Furnishes or gives false information to a weighmaster for use in the completion of a weighmaster certificate.

(d) Knowingly presents for payment a false weighmaster certificate.

(e) Knowingly issues a weighmaster certificate giving thereon a false weight, measure, or count.

(f) Alters a weighmaster certificate resulting in giving thereon a false weight, measure, or count.

(g) Possesses unfilled or unused weighmaster certificate forms, if he or she is not a weighmaster.

12718.5. Subdivision (g) of Section 12718 does not apply to any of the following:

(a) Persons engaged in the business of printing, distributing, or selling weighmaster certificate forms.

(b) Persons possessing or transporting combination grade and weight certificates to be used by employees of marketing order boards or grading inspection services of either the department or the United States Department of Agriculture.

12719. When the weight or measure of a vehicle, container, or pallet and its net contents has been recorded on a weighmaster certificate, it is unlawful for any person to remove a part of, or add to, the net contents, before the contents are delivered to the buyer or consignee, unless a correct weighmaster certificate is obtained.

12720. When the tare weight of a vehicle or the weight of the vehicle and its contents have been recorded on a weighmaster certificate, it is unlawful for any person to alter the tare weight of

the vehicle prior to the time that the net weight of the commodity has been determined and recorded on the certificate.

12721. Except as otherwise provided in this chapter, the vehicle, container, or pallet for which the tare weight is being certified shall actually be weighed at the time of, and for the purpose of, each certification.

12722. (a) In accordance with this chapter and regulations adopted by the director, any weighmaster may use a tare weight for a vehicle, container, or pallet which has been previously determined by a weighmaster. It is the responsibility of the party for whom the tare weight was established to maintain the tare weight within the variations prescribed by the director.

(b) Any weighmaster weighing any vehicle moving earth, stone, rock, sand, gravel, or asphalt paving material may use a predetermined tare weight. It is the responsibility of the party for whom the tare weight was established to maintain the actual weight so that the actual tare weight of the vehicle shall at no time exceed the recorded tare weight.

12723. The director shall adopt regulations for the determination of vehicle, container, and pallet tares, including, but not limited to, the adoption of conditions of use, certificate requirements, sample size, allowable variations, and procedure to be used to verify common tares.

12724. (a) Except as provided in this section, a weighmaster weighing a vehicle for certification shall determine both gross and tare weights with all persons off the scale and vehicle, unless both the gross and tare weights are determined without leaving the weighing location.

(b) Predetermined tares for vehicles moving earth, stone, rock, sand, gravel, and asphalt paving material may be determined with the driver in the vehicle, if the gross weight is determined in the same manner and the weighmaster indicates on the weighmaster certificate that the driver was on the vehicle for both gross and tare weight.

12725. A weighmaster shall not certify to the gross weight of a vehicle whenever all of the following conditions prevail:

(a) The scale is located at the site where the vehicle is loaded.

(b) The vehicle is weighed before entering a highway.

(c) The vehicle's gross weight exceeds 80,000 pounds, unless a special permit authorizing a greater gross weight for the vehicle has been issued pursuant to Section 35780 of the Vehicle Code.

12726. (a) When doubt or differences arise as to the correctness of the net or gross weight or measure of any amount or part of any commodity for which a weighmaster certificate has been issued, a person having a financial interest may, upon complaint to the department, have the amount, or part thereof, reweighed by the department or a weighmaster designated by it, upon depositing a sufficient sum of money with the department to defray the actual cost of reweighing.

(b) If, when reweighed, a difference from the original certified weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of the reweighing shall be borne by the weighmaster responsible for the issuance of the erroneous certificate.

12727. The director may, at any time, require a vehicle to proceed to the nearest vehicle scale for the purpose of weight verification.

12728. (a) No weighmaster shall weigh a vehicle, or combination of vehicles, for certification, when part of the vehicle, or connected combination, is not resting on the scale.

(b) When weighing a combination of vehicles that will not rest on the scale platform at one time, the combination shall be disconnected and weighed separately. The weights so taken may be combined for the purpose of issuing a single certificate.

(c) This section does not prohibit weighing of vehicles to determine compliance with the Vehicle Code.

(d) This section does not apply to the weighing of seed cotton for purposes of ginning when the weights are obtained by weighing trailers not equipped with braking systems and are not used for the sale of the seed cotton.

12729. (a) Except as otherwise provided in this section, any person who violates any provision of this chapter is guilty of a misdemeanor.

(b) A violation of Section 12722 by vehicles hauling bulk tomatoes that does not exceed 50 percent of the tolerance provided by regulations adopted pursuant to Section 12723, or a violation of Sections 12714, 12714.5, or 12715, with the exception of the alteration or omission of gross or tare weights on the weighmaster certificate, are infractions.

(c) Every person convicted of an infraction pursuant to this chapter shall be punished as follows:

(1) For the first conviction, a fine not exceeding one hundred dollars ($100).

(2) For a second conviction within a period of one year, a fine not exceeding two hundred dollars ($200).

(3) For a third or subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500).

12730. (a) Except as provided in subdivision (a) or (b) of Section 12701 or this section, farm products sold by weight or delivered to a processing or conditioning establishment for processing, conditioning, or sale, shall be weighed by a weighmaster, and a weighmaster certificate of the weight shall be issued to the producer with a duplicate copy issued to the buyer, conditioner, or processor.

(b) When the processing or conditioning charges or purchase is based on the weight of the finished product, the finished product shall also be weighed by a weighmaster, and a second weighmaster certificate shall be issued to the producer with a

duplicate copy issued to the buyer, conditioner, or processor.

(c) A producer whose product is delivered, but is not sold, to a processor or conditioner for processing or conditioning, may waive, in writing, his or her right to have the product weighed when the processing or conditioning establishment is operated by a producer of farm products and the processing or conditioning is incidental to the production of farm products. As used in this subdivision, "incidental" means that the income derived from the processing or conditioning operation represents not more than 25 percent of the total income of the producer operating the processing or conditioning establishment.

(d) This section does not apply to any nonprofit cooperative association which is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities which involves the handling or dealing in any farm product of any nonmember of the association.

(e) The term "farm products" includes all agricultural, horticultural, viticultural, and vegetable products of the soil, flaxseed, and cottonseed, but does not include timber, timber products, milk, and milk products.

12731. (a) Notwithstanding any other provisions of this code, where livestock is sold on the basis of weight at a public sales yard, or by or at any livestock market, market agency, or dealer which is subject to the Packers and Stockyards Act of 1921 (7 U.S.C. Sec. 181 et seq.), the livestock shall be weighed by a weighmaster, and a weighmaster certificate shall be issued to the buyer and seller.

(b) The term "livestock" includes cattle, sheep, swine, horses, mules, and goats.

12732. In addition to the certificate requirements of Sections 12714, 12714.5, and 12715, all of the following information shall appear on weighmaster certificates issued for baled hay:

(a) The gross weight of the load of hay and the vehicle at the time of the initial weighing.

(b) The gross weight of the load of hay and the vehicle at the time of reweighing if any correction is made to the load of hay subsequent to the initial weighing.

(c) The name and address of the seller and of either the purchaser or broker of the hay as provided by the driver of the vehicle.

12733. In all cases where scrap metal and salvage materials are purchased or sold by dealers, brokers, or commission merchants on the basis of weight or measure, the quantity of the scrap metal and salvage material shall be determined by a weighmaster, and a weighmaster certificate shall be issued to the seller and buyer. Settlement for the materials shall be made on the quantity shown thereon. When the quantity indications are readily accessible and clearly readable to both the buyer and seller, at the time of determination, a weighmaster certificate shall be issued only

when requested by the buyer or seller.

12734. Notwithstanding any other provision of this division, the weight of squid or anchovy, certified pursuant to this chapter, may be determined by computation based upon volumetric measurement of containers as prescribed by regulations adopted by the director. This section does not apply to squid or anchovy delivered for the purpose of canning, retorting, or reducing.

12735. The director may adopt any rules and regulations that are reasonably necessary for the purpose of carrying out this chapter. Adoption of these rules and regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Chapter 7.3 (commencing with Section 12740) of Division 5 of the Business and Professions Code is repealed.

SEC. 6. Chapter 7.7 (commencing with Section 12770) of Division 5 of the Business and Professions Code is repealed.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 647

An act to amend Sections 9701 and 19020 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 15, 1984 Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 9701 of the Food and Agricultural Code is amended to read:

9701. Any violation of any provision of this chapter is an infraction punishable by a fine of not more than one hundred dollars ($100) for the first offense and is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment, for a second or subsequent offense committed within three years of a prior conviction under this chapter.

SEC. 2. Section 19020 of the Food and Agricultural Code is amended to read:

19020. This chapter does not apply to any of the following:

(a) Owners who slaughter, on their own premises, animals of their own raising where the meat is not for sale, but used exclusively by the owners, members of the owner's household, the owner's employees, and nonpaying guests.

(b) A mobile slaughter operator who provides such services to an owner as specified above in subdivision (a) where the slaughter occurs on the owner's premises and the meat is thereafter transported for the owner to an establishment for further processing.

(c) Persons solely engaged in cutting, wrapping, and otherwise processing farm or custom slaughter livestock or the processing and sale of fresh meats derived from United States Department of Agriculture inspected carcasses, except the curing, smoking, and preparing cooked or smoked sausages or cooked pork products which are not exempted under subdivision (b) of Section 18814.

(d) Livestock slaughter and meat and poultry processing inspected by the United States Department of Agriculture.

CHAPTER 648

An act to add Article 8.5 (commencing with Section 45370) to Chapter 5 of Part 25 of the Education Code, relating to classified employees, and making an appropriation therefor.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Article 8.5 (commencing with Section 45370) is added to Chapter 5 of Part 25 of the Education Code, to read:

Article 8.5. Readers for Legally Blind Teachers

45370. It is the intent of the Legislature in enacting this article that the governing board of each school district employ qualified persons to serve as readers for the legally blind certified classroom teachers of the district.

45371. There is hereby created in the State Treasury the Reader Employment Fund, to be administered by the Superintendent of Public Instruction. From such funds as may be appropriated to the Reader Employment Fund, the Superintendent of Public Instruction shall allocate to each applicant school district an amount sufficient to provide the legally blind certificated classroom teachers employed by the district with the services of a reader for a maximum of 15 hours per school week.

45372. The Superintendent of Public Instruction shall establish the procedures and necessary forms for applications for funding pursuant to this section.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Reader Employment Fund for allocation by the Superintendent of Public Instruction pursuant to Section 45371 of the Education Code, as added by Section 1 of this act.

CHAPTER 649

An act to amend Sections 701 and 10017 of the Elections Code, relating to elections.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 701 of the Elections Code is amended to read:

701. The county clerk shall cancel the registration in the following cases:

(a) At the signed, written request of the person registered.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 707.5, 707.6, 707.7, and 707.8.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Article 6 (commencing with Section 800).

(g) Upon receipt of any mailing returned by the postal service as undeliverable.

(h) Upon official notification that the voter is registered to vote in another county or state.

A blank affidavit of registration shall immediately be mailed to the address from which a cancellation is effected pursuant to subdivision (g).

SEC. 2. Section 10017 of the Elections Code is amended to read:

10017. The officer charged with the duty of providing sample ballots for any election at which absent voter ballots may be cast shall cause to be printed on the envelope containing the sample ballot in heavy-faced gothic type, not smaller than 12-point, the following:

Notice: Absent Voter Ballot Application Enclosed.

SEC. 3. The changes made in Section 10017 of the Elections Code by Section 2 of this act shall not prevent the use of envelopes in existence on the effective date of this act which were produced in accordance with the former provisions of Section 10017.

CHAPTER 650

An act to add Section 846.6 to the Civil Code, relating to real property.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 846.6 is added to the Civil Code, to read:

846.6. (a) The Legislature finds that there are common interest subdivisions that have been created with deed restrictions which do not provide a means for the property owners to extend the conditions, covenants, and restrictions.

The Legislature further finds that conditions, covenants, and restrictions are an appropriate method for protecting the common plan of developments and to provide a mechanism for financial support for the upkeep of common areas including roofs, roads, heating systems, and recreational facilities. If conditions, covenants, and restrictions terminate prematurely, common interest subdivisions may deteriorate and the housing supply of affordable units could be impacted adversely.

The Legislature declares that it is in the public interest to provide a vehicle for extending conditions, covenants, and restrictions in common interest subdivisions, if more than 50 percent of the property owners choose to do so.

(b) The term of any set of conditions, covenants, or restrictions which affect any lot or unit in any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code, and which specify a termination date, but which contains no provision for extension of the termination date may be extended by the approval of more than 50 percent of the property owners in the subdivision, or any greater percentage specified in the conditions, covenants, or restrictions for an amendment thereto. Any amendment to a set of conditions, covenants, and restrictions pursuant to this section shall be executed and certified on behalf of the common interest subdivision by any officer of a homeowners' association.

(c) Any amendment authorized by this section shall become effective upon recordation in the office of the recorder of any county in which any affected lot or unit is situtated.

(d) No extension shall exceed the initial term of the covenants, conditions, and restrictions, or 20 years, whichever is less. The term of any extension shall be set forth in every recorded document.

CHAPTER 651

An act to amend Sections 62707 and 62712 of the Food and Agricultural Code, relating to milk.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 62707 of the Food and Agricultural Code is amended to read:

62707. The formulation committee shall make recommendations to the director for inclusion in the pooling plan, and the director shall include in the pooling plan, the following:

(a) The establishment of one or more pools throughout the state.

(b) (1) The base period to be used in determining the production and class 1 usage bases of each producer directly affected by the pooling plan. The base period shall, at the producer's option, be his or her fluid milk production and usage in the pool area during the calendar year 1967 on an average daily basis or his or her production and usage in the pool area during the last six months of 1966 on an average daily basis.

(2) As to a producer south and east of San Gorgonio Pass, his or her production base may at his or her option, be four times his or her production in the months of December, 1966, and January and February, 1967.

(3) If a producer, during any such base period, had a valid contract with a distributor, or as a member of a cooperative association had an allocation, which provided that the distributor or cooperative association was required to accept a larger amount of fluid milk from the producer than the producer actually produced during the period, on proof satisfactory to the director of the contract or allocation, the producer may, at his or her option, have the amount specified in the contract or allocation established as his or her production base.

(c) The establishment of a class 1 usage for each producer, which shall be the amount of his or her production of fluid milk accounted for as class 1, and any fluid milk sold for use as class 1 to a United States military installation but which was not accounted for as class 1.

(d) The allocation to each producer within any pool of a pool quota, which, initially, shall be 110 percent of that producer's class 1 usage, as determined in subdivision (c).

(e) (1) The determination of new class 1 usage and the allocation of pool quota based thereon in a manner consistent with effectuating the purposes of this chapter.

(2) All producers who have not reached the equalization point shall share in the allocation of pool quota on the basis of a formula

which shall give substantial weight to each producer's production base, but which at the same time shall allocate a larger percentage to hardship cases and low class 1 usage producers.

(3) The allocations shall be made on the basis of each individual producer, with each cooperative association considered as a single producer. The cooperative associations of producers shall reassign any new quota to their own members subject to the provisions of Section 62710.

(4) Annually, within no more than four months after August 31 of each year, the pool quota shall be adjusted by each component to reflect any additional pool quota. Any increase in pool quota shall be determined from the amount of new class 1 solids not fat usage which developed during the preceding annual period which exceeded the previous highest identical annual period since the enactment of this chapter.

There shall be no downward adjustment of pool quota below the quota initially established pursuant to this chapter.

(f) The establishment of production bases and pool quotas for new fluid milk producers who wish to enter the pooling plan after the effective date of the plan. The recommendations of the committee shall be reasonably equitable to both the new producers and to participating producers and consistent with effectuating the purposes of this chapter.

(g) The transfer of production bases and pool quotas from one fluid milk producer to another under conditions so designed as to prevent abuses in the transfers and to avoid the development of excessive values for the bases and quotas.

(h) (1) Any and all other matters necessary and desirable to effectuate the provisions of this chapter.

(2) The recommendations of the formulation committee and the pooling plan may provide exceptions from the plan's general application for individual cases of hardship.

SEC. 2. Section 62712 of the Food and Agricultural Code is amended to read:

62712. (a) The director may require handlers, including cooperative associations acting as handlers, to make reports at any intervals and in any detail that he or she finds necessary for the operation of the pool. In conjunction with the pools authorized by this chapter, the director may require handlers to make payments into a settlement fund for fluid milk received and the director may provide for the disbursement of moneys from the settlement fund in the course of administering the pools. The director may employ a pool manager to operate each pool and may permit the pool manager to employ such other necessary personnel and incur such expenses incidental to the operation of the pool as the director finds are necessary.

Handlers who have a financial obligation to the pool resulting from the operation of the pooling plan shall pay the obligations to the pool manager each month as requested. All of these moneys shall be

deposited in a bank or banks approved by the director, and shall be paid out by the pool manager to handlers who have pool credits resulting from the operation of the pooling plan. All financial operations of each pool shall be audited by the department at least once annually. The director may require handlers to make such deductions from amounts due to producers as he or she finds are necessary to establish a reserve fund to insure prompt payment to producers.

(b) The pool manager shall effectuate the purposes of Section 62711 by designating the percentage of each price class (i.e., classes 1, 2, 3, 4a, and 4b) to be paid within each pool settlement classification (i.e., quota pool, production pool, and overproduction pool), and in so doing he or she shall allocate the highest usage available, first to the quota pool, next to the production pool, and last to the overproduction pool.

(c) All pool quotas initially determined pursuant to Section 62707 shall be recognized and shall not in any way be diminished.

CHAPTER 652

An act to amend Section 68511.3 of the Government Code, relating to courts.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 68511.3 of the Government Code is amended to read:

68511.3. (a) The Judicial Council shall formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis. These rules shall provide: (1) for standard procedures for considering and determining applications for permission to proceed in forma pauperis, including, in the event of a denial of such permission, a written statement detailing the reasons for denial and an evidentiary hearing where there is a substantial evidentiary conflict; (2) for standard procedures to toll relevant time limitations when a pleading or other paper accompanied by such an application is timely lodged with the court and delay is caused due to the processing of the application to proceed in forma pauperis; (3) for proceeding in forma pauperis at every stage of the proceedings at both the appellate and trial levels of the court system; (4) for the confidentiality of the financial information provided to the court by these litigants; (5) that the court may authorize the clerk of the court, county financial officer, or other appropriate county officer to make reasonable efforts to verify the litigant's financial condition without compromising the confidentiality of the application; and (6)

that permission to proceed in forma pauperis be granted (A) to litigants who declare under penalty of perjury that they are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200-12205.2 of the Welfare and Institutions Code), the Aid to Families with Dependent Children (AFDC) program (42 United States Code 601-644), the Food Stamp program (7 United States Code 2011-2027) or Section 17000 of the Welfare and Institutions Code and (B) to litigants who declare under penalty of perjury that their monthly income is 125 percent or less of the current monthly poverty line annually established by the Secretary of Health and Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended, and who submit a financial statement setting forth each item which makes up their monthly income in support of the averment as part of the declaration. The rules shall further provide that the court shall grant permission to proceed in forma pauperis in any other instance in which, in its discretion, such permission is appropriate because the litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessaries of life.

(b) The forms and rules shall provide for the disclosure of both of the following:

(1) The current address of the litigant.

(2) The date of birth of the litigant.

The information furnished by the litigant shall be used by the court in determining his or her ability to pay all or a portion of the fees and costs.

(c) At any time within three years after the court has granted a litigant permission to proceed in forma pauperis, the clerk of the court, county financial officer, or other appropriate county officer may notify the court of any changed financial circumstances which may enable the litigant to pay all or a portion of the fees and costs which had been waived. The court may authorize the clerk of the court, county financial officer or other appropriate county officer to require the litigant to appear before and be examined by the court; provided, that no litigant shall be required to appear more than once in any four-month period. The court may then order the litigant to pay to the county such sum and in such manner as the court believes is compatible with the litigant's financial ability.

In any action or proceeding in which the litigant whose fees and costs have been waived would have been entitled to recover those fees and costs from another party to the action or proceeding had they been paid, the court may assess the amount of the waived fees and costs against the other party and order the other party to pay that sum to the county.

Execution may be issued on any order provided for in this subdivision in the same manner as on a judgment in a civil action, and not otherwise.

(d) The clerk of the court may dispose of applications for in forma

pauperis status three years after the date of filing without the need for microfilming, or the clerk may dispose of applications immediately upon their being microfilmed.

CHAPTER 653

An act to add Section 65913.5 to the Government Code, relating to housing.

[Approved by Governor August 15, 1984 Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 65913.5 is added to the Government Code, to read:

65913.5. (a) Any party may protest the establishment of the imposition of any fees, taxes, assessments, dedications, reservations, or other exactions imposed on a residential housing development by a city, county, city and county, or any other local public entity at any time prior to the expiration of the limitation period of subdivision (d) by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity which notice shall contain all of the following information:

(A) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with the provisions of subdivision (a) shall not be the basis for a city, county, city and county, or any other local public entity to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development of the residential housing development. This section does not limit the ability of a public agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing public agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed residential housing development, is required for reasons related to the public health, safety, and welfare, and elects to impose a

requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, such approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, taxes, assessments, dedications, reservations, or other exactions not presently governed by other law.

(d) A protest filed pursuant to subdivision (a) shall be filed within 90 days after the date of the establishment of the fees, taxes, assessments, dedications, reservations, or other exactions to be imposed on a residential housing development. Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, taxes, assessments, dedications, reservations, or other exactions imposed on a residential housing development by a city, county, city and county, or any other local public entity within 180 days after the date of the establishment of the imposition. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such imposition. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the city, county, city and county, or any other local public entity to refund the unlawful portion of the payment or return the unlawful portion of the exaction imposed, with interest at the rate of 8 percent per annum.

CHAPTER 654

An act to amend Sections 99246, 99267, 99270.2, and 99405 of, and to add and repeal Section 99268.12 of, the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 99246 of the Public Utilities Code is amended to read:

99246. (a) The transportation planning agency shall designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance

audit of its activities, and those of county transportation commissions and transit development boards located in the area under its jurisdiction, with respect to this chapter and of each operator to whom it allocates funds. The transportation planning agency shall consult with the entity to be audited prior to designating the entity to make the performance audit.

Where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall designate entities other than itself, a transportation planning agency, or an operator to make a performance audit of its activities and those of operators located in the area under its jurisdiction to whom it directs the allocation of funds. The board or commission shall consult with the entity to be audited prior to designating the entity to make the performance audit.

(b) The performance audit shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." A performance audit shall be submitted by July 1, 1980. Subsequent performance audits shall be submitted triennially pursuant to a schedule established by the transportation planning agency, transit development board, or county transportation commission having jurisdiction over the operator.

(c) With respect to an operator providing public transportation services, the performance audit shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit shall include, but not be limited to, consideration of the needs and types of the passengers being served and the employment of part-time drivers and the contracting with common carriers of persons operating under a franchise or license to provide services during peak hours, as defined in subdivision (a) of Section 99260.2.

The performance audit may include performance evaluations both for the entire system and for the system excluding special, new, or expanded services instituted to test public transportation service growth potential.

SEC. 2. Section 99267 of the Public Utilities Code is amended to read:

99267. (a) At least 15 percent of funds received under this article shall be used by an operator for capital expenditures.

(b) Capital expenditures consist of acquisition of land and other real property, current acquisition or replacement of transportation vehicles or conveyances (including those usable by handicapped persons), the vehicle cost portion of a vehicle lease, and acquisition, construction, enlargement, or repair of property and facilities

incidental to or necessary or convenient in connection with the foregoing, depreciation, and payment of principal and interest on its bonded indebtedness, equipment trust certificates, or other indebtedness, including any amounts in the accomplishment of a defeasance under any outstanding revenue bond indenture.

(c) The requirement specified in subdivision (a) does not apply (1) to an operator in each fiscal year that it receives financial assistance from local sources, exclusive of fares, in an amount equal to or greater than the amount it would have been required to expend pursuant to subdivision (a) or (2) to money allocated to a transit district for a claim filed pursuant to Section 99260.5.

(d) Commencing with the 1983–84 fiscal year, if an operator ceases operations, any capital acquisitions made by that operator from funds allocated to it pursuant to this article may be transferred to any claimant to provide transportation services under the chapter.

SEC. 3. Section 99268.12 is added to the Public Utilities Code, to read:

99268.12. (a) Notwithstanding Sections 99268.1, 99268.3, and 99268.4, with respect to those counties which have less than 500,000 population as determined by the 1980 federal decennial census, an operator which operates only within those counties shall maintain a ratio of fare revenue to operating costs, as defined by subdivision (a) of Section 99247, at least equal (1) to one-fifth if serving an urbanized area or one-tenth if serving a nonurbanized area or (2) to its otherwise required ratio pursuant to Section 99268.1, 99268.3, or 99268.4 minus one-twentieth, whichever is greater, in order to be eligible for allocations under this article.

(b) This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 99270.2 of the Public Utilities Code is amended to read:

99270.2. If an operator serves an area that was first designated as an urbanized area in the 1980 federal decennial census, the transportation planning agency may grant the operator time, but not after July 1, 1987, to meet the ratio of fare revenues to operating cost required of an operator serving an urbanized area.

This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 99405 of the Public Utilities Code is amended to read:

99405. (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new

facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of the facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

(c) The 50-percent limitation shall not apply to the allocation to a city, county, or transit district for services under contract pursuant to subdivision (c) or (d) of Section 99400. The city, county, or transit district shall be subject to Section 99268.3, 99268.4, 99268.5, or 99268.9, as the case may be, and shall be deemed an operator for purposes of those sections, or shall be subject to regional, countywide, or county subarea performance criteria, local match requirements, or fare recovery ratios adopted by resolution of the transportation planning agency or the county transportation commission for those services.

(1) In adopting the performance criteria, local match requirements, or fare recovery ratios, the transportation planning agency or the county transportation commission may adopt the criteria of Section 99268.3, 99268.4, 99268.5, or 99268.9, or any combination or all of them.

(2) If a transportation planning agency or county transportation commission has adopted performance criteria, local match requirements, or fare recovery ratios, the rules and regulations of the agency or commission shall apply, and Sections 99205.7 and 99241, subdivision (a) of Section 99247, and Section 99268.8 shall not apply.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000.

(e) The 50-percent limitation shall not apply to funds allocated under this article for local street and road purposes.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable public transit agencies to continue serving their riders and to adequately plan for the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 655

An act to amend Section 3342.5 of the Civil Code, and to add Section 399.5 to the Penal Code, relating to dogs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 3342.5 of the Civil Code is amended to read:

3342.5. (a) The owner of any dog which has bitten a human being shall have the duty to take such reasonable steps as are necessary to remove any danger presented to other persons from bites by the animal.

(b) Whenever a dog has bitten a human being on at least two separate occasions, any person, the district attorney, or city attorney may bring an action in the municipal court against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by such animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(c) Whenever a dog trained to fight, attack, or kill has bitten a human being, causing substantial physical injury, any person, including the district attorney, or city attorney may bring an action in the municipal court against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(d) Nothing in this section shall authorize the bringing of an action pursuant to subdivision (b) based on a bite or bites inflicted upon a trespasser, or by a dog used in military or police work if the bite or bites occurred while the dog was actually performing in that capacity.

(e) Nothing in this section shall be construed to prevent legislation in the field of dog control by any city, county, or city and county.

(g) Nothing in this section shall be construed to affect the liability of the owner of a dog under Section 3342 or any other provision of the law.

SEC. 2. Section 399.5 is added to the Penal Code, to read:

399.5. (a) Any person owning or having custody or control of a dog trained to fight, attack, or kill is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both, if, as a result of that person's failure to exercise ordinary care, the dog bites a human being, on two separate occasions or on one occasion causing substantial physical injury. No person shall be

criminally liable under this section, however, unless he or she knew or reasonably should have known of the vicious or dangerous nature of the dog, or if the victim failed to take all the precautions that a reasonable person would ordinarily take in the same situation.

(b) Following the conviction of an individual for a violation of this section, the court shall hold a hearing to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bite or bites have changed so as to remove the danger to other persons presented by the animal. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(c) Nothing in this section shall authorize the bringing of an action pursuant to subdivision (a) based on a bite or bites inflicted upon a trespasser, upon a person who has provoked the dog or contributed to his or her own injuries, or by a dog used in military or police work if the bite or bites occurred while the dog was actually performing in that capacity. As used in this subdivision, "provocation" includes, but is not limited to, situations where a dog held on a leash by its owner or custodian reacts in a protective manner to a person or persons who approach the owner or custodian in a threatening manner.

(d) Nothing in this section shall be construed to affect the liability of the owner of a dog under Section 399 or any other provision of law.

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

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall go into immediate effect. The facts constituting the necessity are:

For the immediate protection of the health and safety of individuals from animals which have shown a propensity to harm or have already harmed human beings, it is necessary that this act go into immediate effect.

CHAPTER 656

An act to add Sections 7852.3 and 7852.4 to the Fish and Game Code, relating to commercial fishing licenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 16, 1984.]

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

SECTION 1. Section 7852.3 is added to the Fish and Game Code, to read:

7852.3. (a) Notwithstanding Section 7852, 7852.5, or 7860 a commercial fishing license shall be issued under this article by the department for a fee of twenty dollars ($20), and a commercial fishing salmon stamp shall be issued under this article for the total of one-half of the fee determined under Section 7852.5 and one-half of the fee determined under Section 7860 to a person, if all of the following conditions are met:

(1) The person provides the following information to the State Department of Education, which, upon verification of the information, shall issue the person a work permit for the work program:

(A) The person is 18 years of age or younger.

(B) The person is a student who is working during summer vacation or other school vacation on a vessel.

(C) The work is part of an authorized schoolwork program.

(D) The person has the written permission of his or her parent or guardian.

(2) The person provides the department with a copy of the work permit issued under paragraph (1) and provides the department with information that the vessel on which the person intends to work is operated under one of the following conditions:

(A) By a family member.

(B) By a nonfamily member and the owner or operator has insurance providing indemnification to the person in case of accident or injury while working on the vessel.

(b) For purposes of this section, "family member" means any of the following relations of the person who is applying for a license or stamp under this section:

(1) A spouse.

(2) A mother, father, grandmother, grandfather, great-grandmother, great-grandfather, or the present spouse of that lineal ancestor.

(3) A child or child's spouse.

(4) An aunt or uncle, by blood or marriage.

(5) A nephew or niece, or that person's spouse.

(c) The department shall not issue a license under subdivision (a)

if the person has been issued a license under subdivision (a) in each of the preceding three years.

SEC. 2. Section 7852.4 is added to the Fish and Game Code, to read:

7852.4. The owner of a vessel upon which a person licensed under Section 7852.3 is working shall obtain, and maintain in full force and effect at all times that such a person is working on or about the vessel, a policy of insurance which provides indemnification to the person licensed under Section 7852.3 in case of accident or injury while working on or about the vessel.

SEC. 3. (a) Notwithstanding Section 7652 of the Fish and Game Code, silver salmon may be taken for commercial purposes by a person who possesses a commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code in the following places at the following times during 1984, unless prohibited pursuant to Section 7710 of the Fish and Game Code or other provision of law:

(1) North of Point Arena (39° N. Latitude) and south of Point Delgada (40°01′24″ N. Latitude), from the effective date of this section to September 30, 1984, inclusive.

(2) North of Point Delgada, except not at the mouth of the Klamath River (from 41°38′48″ N. Latitude to 41°28′48″ N. Latitude), from the effective date of this section to August 22, 1984, inclusive.

(b) Nothing in this section shall be construed to affect the provisions of subdivision (e), (f), or (g) of Section 182.1 of Title 14 of the California Administrative Code, as adopted on May 1, 1984.

(c) This section shall remain in effect only until October 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before October 1, 1984, deletes or extends that date.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow commercial fishing for silver salmon north of Point Arena in 1984, and in order to provide increased training and job opportunities in the commercial salmon fishing industry to persons younger than the age of 18 years in 1984, it is necessary that this act take effect immediately.

CHAPTER 657

An act to amend and repeal Section 53094 of, and to add and repeal Section 53097 of, the Government Code, relating to regulations of local agencies.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 53094 of the Government Code is amended to read:

53094. Notwithstanding any other provisions of this article except Section 53097, the governing board of a school district, by vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by such school district except when the proposed use of the property by such school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, automotive storage and repair buildings. The board shall, within 10 days, notify the city or county concerned of such action. If such governing board has taken such action the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of such action of the governing board of the school district to determine whether it was arbitrary and capricious. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that such action was arbitrary and capricious, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by such school district.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 53094 of the Government Code, as amended by Section 1 of Chapter 760 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 53097 is added to Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

53097. Notwithstanding any other provisions of this article, the governing board of a school district shall comply with any city or county ordinance (1) regulating drainage improvements and conditions, (2) regulating road improvements and conditions, or (3) requiring the review and approval of grading plans as such ordinance provisions relate to the design and construction of onsite facilities

and improvements, and shall give consideration to the specific requirements and conditions of city or county ordinances relating to the design and construction of offsite improvements. If a school district elects not to comply with the requirements of city or county ordinances relating to the design and construction of offsite improvements, the city or county shall not be liable for any injuries or for any damage to property caused by the failure of the school district to comply with those ordinances.

This section shall remain in effect only until January 1, 1991, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends such date.

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

CHAPTER 658

An act to add Section 13202.5 to the Vehicle Code, relating to driver's licenses.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 13202.5 is added to the Vehicle Code, to read:

13202.5. (a) Upon conviction of a person for any offense specified in subdivision (d), committed while the person was under the age of 18 years and while driving a motor vehicle, the court may suspend or restrict the person's driving privileges on conditions that the court deems appropriate or, in the case of a person who does not yet have the privilege to drive, order that the privilege be delayed. The duration of the restriction, suspension, or delay shall be for up to one year or until the person reaches 17 years of age, whichever is longer; however, if the person's driving privileges have been previously suspended, restricted, or delayed pursuant to this section, the duration may be extended until the person reaches 18 years of age.

As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is had shall require

all driver's licenses held by the person to be surrendered to the court. The court shall within 10 days following the conviction transmit certified abstract of the conviction, together with any driver's licenses surrendered, to the department.

Violation of restrictions imposed pursuant to this subdivision shall be subject to Section 14603.

(c) If a court has issued an order suspending, restricting, or delaying driving privileges pursuant to subdivision (a), the court, upon petition of the person affected, may review the order and may reduce the length of the suspension, restriction, or period of ineligibility for a driver's license. The court shall notify the department of any modification.

(d) This section applies to violations of Sections 23220 and 23222 and subdivision (a) of Section 23224.

(e) Suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed for violations specified in subdivision (d).

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

CHAPTER 659

An act to amend Section 14851 of the Financial Code and to amend Sections 53601, 53630, 53635, 53637, 53638, 53648, 53653, 53661, 53676, and 53679 of the Government Code, relating to financial institutions.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 14851 of the Financial Code is amended to read:

14851. (a) Every credit union may issue shares to any member qualified pursuant to the credit union's bylaws and to an officer, employee, or agent of nonmember units of federal, Indian tribal, state, or local governments, and political subdivisions thereof when acting in his or her official capacity.

(b) Shares may be issued in coownership to a member and any person designated by such member. Coownership, as used herein, includes but is not limited to, joint tenancy, tenancy in common or community property forms of ownership. No membership privilege,

including voting and obtaining a loan, may be made available to any nonmember as a result of ownership of shares solely as coowner of shares with a member, and any certificate or other evidence of shares which may be issued, shall contain the words "No transfer of voting rights or other membership privilege is permitted by virtue of transfer of shares." Shares may be transferred to a public agency lawfully entitled to receive same when designated by a member as assignee of an account pledged as a surety deposit to such public agency by such member.

SEC. 2. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983 is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal

utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency is prohibited from investing its funds in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union issuing the negotiable certificates of deposit.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall

mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 3. Section 53630 of the Government Code is amended to read:

53630. As used in this article:

(a) "Local agency" means county, city, city and county, or other public agency or corporation.

(b) "Treasurer" means treasurer of the local agency.

(c) "Depository" means a state or national bank, state or federal savings and loan association, or federal or state credit union in which the moneys of a local agency are deposited.

(d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco.

(e) "Security" means any of the eligible securities or obligations listed in Section 53651.

(f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.

(g) "Administrator" means the Administrator of Local Agency Security of the State of California.

SEC. 4. Section 53635 of the Government Code as amended by Section 2.5 of Chapter 567 of the Statutes of 1983 is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out

of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not

exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union issuing the negotiable certificates of deposit.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

SEC. 5. Section 53637 of the Government Code is amended to read:

53637. The money shall be deposited in any depositary selected from those banks, savings and loan associations, and federal or state credit unions agreeing to pay the highest rate of interest, except that money shall not be deposited in any state or federal credit union if a member of the legislative body of a local agency, or an employee of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

SEC. 6. Section 53638 of the Government Code is amended to read:

53638. (a) The deposit shall not exceed the total of the paid-up capital and surplus of any depositary bank. For the purposes of this

subdivision, paid-up capital shall be deemed to include capital notes and debentures.

(b) The deposit shall not exceed the total of the net worth of any depositary savings and loan association, except that deposits not exceeding a total of five hundred thousand dollars ($500,000) may be made to a savings and loan association without regard to the net worth of that depositary, if such deposits are insured or secured as required by law.

(c) The deposit to the share accounts of any regularly chartered credit union shall not exceed the total of the unimpaired capital and surplus of the credit union, as defined by rule of the commissioner, except that the deposit to any credit union share account in an amount not exceeding five hundred thousand dollars ($500,000) may be made if the share accounts of that credit union are insured or guaranteed pursuant to Section 14858 of the Financial Code or are secured as required by law.

SEC. 7. Section 53648 of the Government Code is amended to read:

53648. Notwithstanding this article, the treasurer may deposit moneys in, and enter into contracts with, a state or national bank, state or federal savings and loan association, or federal or state credit union pursuant to a federal law or a rule of a federal department or agency adopted pursuant to the law if the law or rule conflicts with this article in regulating the payment of interest on deposits of public moneys by any of the following:

(a) Banks which are Federal Reserve System members or whose deposits are insured by the Federal Deposit Insurance Corporation.

(b) Savings and loan associations which are Federal Home Loan Bank members or whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

(c) State or federal credit unions whose accounts are insured by the National Credit Union Share Insurance Fund or guaranteed by the California Credit Union Share Guaranty Corporation or insured or guaranteed pursuant to Section 14858 of the Financial Code, unless a member of the legislative body of a local agency, or an employee of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

SEC. 8. Section 53653 of the Government Code is amended to read:

53653. When in his or her discretion local conditions so warrant, the treasurer may waive security for such portion of any deposits as is insured or guaranteed pursuant to federal or state law, notwithstanding this article.

SEC. 9. Section 53661 of the Government Code is amended to read:

53661. The Superintendent of Banks shall act as Administrator of

Local Agency Security and shall be responsible for the administration of this article. The administrator shall:

(a) Issue such rules and regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties and responsibilities assigned by this article.

(b) In addition to other remedies, have the power and authority to impose the following sanctions for noncompliance with this article, after a hearing if requested by the party deemed in noncompliance, except as provided in paragraph (4):

(1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars ($250) for each day such depository fails to maintain with the agent of depository securities as required by Section 53652.

(2) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or willfully fails to file in the office of the administrator a written report required by such section.

(3) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (c) of Section 53661 that a depository negligently or willfully fails to file in the office of the administrator a written report required by that section.

(4) Declare an agent of depository who fails to comply with its agreement filed pursuant to Section 53657 ineligible to act as an agent of depository, and order securities held by such agent of depository transferred to another agent of depository designated by the administrator. Following such declaration of ineligibility and transfer of securities, the administrator shall hold a hearing upon request of the agent of depository pursuant to regulations issued under this article.

(c) Require from every depository a report verified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, such report to confirm compliance with Section 53652. Such reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. Such reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for such report.

(d) Verify pooled securities reported to be held by an agent of a depository at such times as the administrator deems necessary.

(e) Have access to reports of examination made by the Comptroller of the Currency insofar as they relate to the trust departments of national banking associations.

(f) Determine when any security listed in Section 53651 is not qualified to secure public deposits and to require in such case that

an additional security be substituted immediately in the pooled securities if necessary to comply with Section 53652. Failure to comply with such requirement shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition shall be reported as follows:

(1) When that depository is a national bank, to the Comptroller of the Currency of the United States.

(2) When that depository is a state bank, to the Superintendent of Banks.

(3) When that depository is a federal savings and loan association, to the Federal Home Loan Bank Board.

(4) When that depository is a state savings and loan association, to the Savings and Loan Commissioner.

(5) When that depository is a federal credit union to the National Credit Union Administration.

(6) When that depository is a state credit union, to the Commissioner of Corporations.

(g) Require from each treasurer at appropriate times a statement of the amount and location of each deposit together with such other information deemed necessary by the administrator for effective operation of this article. The facts recited in any statement from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him by this article and for no other purpose.

(h) In the discretion of the administrator, whenever it appears to the administrator that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this article or any rule, regulation or order issued under this article, bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with this article or any rule, regulation or order issued under this article. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.

SEC. 10. Section 53676 of the Government Code is amended to read:

53676. The treasurer is not responsible for securities delivered to and receipted for by any bank, savings and loan association, credit union, or trust company.

SEC. 11. Section 53679 of the Government Code is amended to read:

53679. So far as possible all money belonging to a local agency under the control of any of its officers or employees other than the treasurer or a judge or officer of a justice or municipal court shall, and all money coming into the possession of a judge or officer of a justice or municipal court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal savings and loan association, or federal or state credit

union in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a justice or municipal court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a justice or municipal court, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the particular state or federal credit union. Such money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a justice or municipal court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Articles 5 (commencing with Section 29400) or 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

SEC. 12. Sections 2 to 9, inclusive, of this act shall become operative upon the amendment of subdivision (b) of Section 11 of Article 11 of the California Constitution authorizing the Legislature to provide for the deposit of public moneys in any federal or state credit union in this state.

CHAPTER 660

An act to amend Section 4691 of the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 4691 of the Welfare and Institutions Code is amended to read:

4691. (a) The Legislature reaffirms its intent that community-based day programs be planned and provided as part of a continuum of services to enable persons with developmental disabilities to approximate the pattern of everyday living available to

people of the same age without disabilities. The Legislature further intends that standards be developed to ensure high quality services, and that equitable rate-setting procedures based upon those standards be developed and periodically reviewed and revised, as appropriate, to maintain service standards. The Legislature intends that rate-setting procedures be developed for all day programs, which include adult day programs, adult development centers, activity centers, infant day programs, sensory-motor programs, and independent living programs.

(b) For the purpose of ensuring that regional centers may secure high quality services for persons with developmental disabilities, the State Department of Developmental Services shall adopt regulations establishing standards and a mechanism for setting equitable rates, based upon the cost of allowable program components as required to meet standards, pursuant to Section 4690. In developing these the department shall consider factors including, but not limited to, staff qualifications, staff-to-client ratios, and client entrance and exit criteria. In developing mechanisms for setting rates based upon standards, program components to be considered shall include, but not be limited to, the average daily attendance at the facility, the services provided to the client, characteristics of direct care staff including staff-to-client ratios, staff qualifications, facility locations, and administrative costs, and other program related factors significantly correlated with program costs.

The department shall develop these regulations in consultation with representatives from the State Council on Developmental Disabilities, the Organization of Area Boards, and other organizations representing regional centers, providers, and clients, as determined by the department.

The State Council on Devlopmental Disabilities shall have an opportunity to review and comment upon the proposed regulations prior to their promulgation. The department shall promulgate regulations for services purchased by regional centers for adults in programs vendored as activity centers by July 1, 1985, and for adults in programs vendored as adult development centers by July 1, 1986. By July 1, 1985, the department shall also develop a timetable for its completion of the development of regulations for services for adults in all other types of day programs, and services for clients in infant day programs, sensory-motor programs, and independent living programs.

(c) Upon the promulgation of regulations pursuant to subdivision (b) and by July 1 of each year thereafter, the department shall establish rates pursuant to the regulations. Reimbursement of providers at established rates of reimbursement shall be subject to the appropriation of sufficient funds for those purposes.

(d) The department shall report to the Legislature by April 15, 1985, and every year thereafter on April 15 each of the following:

(1) The cost of providing such services as determined in the department's rates study.

(2) The relationship of the budget appropriation to these documented costs based on standards promulgated pursuant to subdivision (c).

(e) Rates established by the department pursuant to subdivision (b) are exempt from the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The department shall ensure that the regional centers monitor compliance with program standards.

(g) In the development and adoption of regulations under subdivision (b), the department shall consider the report developed by the State Council on Developmental Disabilities pursuant to subdivision (b) of Section 4692. Prior to promulgating regulations, the department shall report to the Legislature on its consideration of the six recommendations to the Governor and the Legislature contained in the above report.

(h) The department shall develop and implement a procedure for vendors to appeal the rates set pursuant to Section 4690 for day programs with clear timelines for appeal by the vendor and the response by the state department.

(i) Within one year after implementation of the rate-setting mechanism described in subdivision (c), the department shall report to the Legislature on the extent to which the rate-setting mechanism results in rates which are competitive with rates paid by other agencies and jurisdictions and are not less than rates established for comparable services under the Medi-Cal program, in accordance with Section 4690.

CHAPTER 661

An act relating to the Republican State Central Committee, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the candidate who was nominated at the June 8, 1982, special primary election to fill a vacancy in congressional office from the former 30th congressional district and whose affidavit of registration stated a Republican Party affiliation at the time of that special primary election shall be a nominee member of the Republican State Central Committee. That candidate shall be a member of the state central committee until the day of the first meeting of the state central committee following the 1984 General Election and shall be entitled to make appointments to the

committee pursuant to Section 9162 of the Elections Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the candidate described in this act may be granted membership to the Republican State Central Committee at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 662

An act to add Section 25351.7 to, and to add and repeal Chapter 10.7 (commencing with Section 25930) of Division 20 of, the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 25351.7 is added to the Health and Safety Code, to read:

25351.7. Any treatment, storage, transfer, or disposal facility built on the Stringfellow Quarry Class I Hazardous Waste Disposal Site, which was built for the purpose of a remedial or removal action at that site, shall only be used to treat, store, transfer, or dispose of hazardous substances removed from that site.

SEC. 2. The Legislature finds and declares that cancer is now the second leading cause of death of children from 5 to 14 years of age and that chronic and acute illnesses in children have doubled in the 10-year period from 1969 to 1979. The Legislature further finds that there is growing evidence that our children are being exposed to ever greater amounts of chemicals on a daily basis. Therefore, in keeping with the tradition of safeguarding our state's most valuable resource, its children, the Legislature hereby enacts Section 3 of this act to afford children the maximum protection possible from chemicals which may prove harmful to their health.

SEC. 3. Chapter 10.7 (commencing with Section 25930) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 10.7. WOOD PRESERVATIVES: WOODEN PLAYGROUND AND RECREATION EQUIPMENT

25930. (a) No state funds shall be used by any state agency, on-site employee child care center for state employees, city, county, city and county, district, superintendent of schools, school district, or

community college district to purchase wooden playground or recreational equipment where there is a likelihood of contact by children and when the equipment has been treated with any of the following substances:

(1) Pentachlorophenol.

(2) Creosote.

(3) Arsenic, elemental arsenic, or arsenic copper combination, unless the seller certifies that the wood is free of visible arsenical surface deposits.

(b) The state or any city, county, city and county, district, superintendent of schools, school district, community college district, or on-site employee child care center for state employees which receives education or parks and recreation funds from the state shall not use any portion of these funds for the maintenance or upkeep of any wooden structures treated with any of the substances named in subdivision (a) and where there is a likelihood of contact by children, unless the state, city, county, city and county, superintendent of schools, school district, district, community college district, or on-site employee child care center for state employees treats the wooden structures with nontoxic and nonslippery sealers. In the case of wooden playground or recreational equipment treated with arsenic, elemental arsenic, or arsenic copper combination, nontoxic and nonslippery sealers shall not be required if the wood is free of visible arsenical surface deposits.

25930.1. The State Department of Health Services shall conduct a study and provide a report to the Legislature by January 1, 1986, on the hazards of wood treatment products used on playground structures where there is a likelihood of contact by children with those products. The report shall include the department's recommendations and, if appropriate, the report shall include the department's recommendations for safe standards for the use of wood treatment products on playground structures. There is hereby appropriated from the General Fund to the state department the sum of thirty thousand dollars ($30,000) for the purposes of those studies.

25930.2. This chapter shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

CHAPTER 663

An act to amend Sections 19622, 19627, 19627.2, and 19630 of, and to add Section 19624 to, the Business and Professions Code, relating to the Fair and Exposition Fund, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 19622 of the Business and Professions Code is amended to read:

19622. The following amounts are hereby annually appropriated out of the fund:

(a) Two hundred sixty-five thousand dollars ($265,000) for the support of the California Exposition and State Fair.

(b) Two hundred fifty thousand dollars ($250,000) for the support of the Los Angeles County Fair.

(c) Two hundred fifty thousand dollars ($250,000) for the support of the 1-A District Agricultural Association.

SEC. 1.5. Section 19624 is added to the Business and Professions Code, to read:

19624. Notwithstanding Section 13340 of the Government Code, the appropriations from the fund pursuant to subdivision (d) of Section 19614 and Sections 19622, 19626, 19627, 19627.3, and 19630 shall continue as provided in those sections.

SEC. 2. Section 19627 of the Business and Professions Code is amended to read:

19627. (a) Six million four hundred sixty thousand ($6,460,000) of the first balance of the fund is hereby annually appropriated to the Department of Food and Agriculture for the encouragement of county, district, or combined county and district fairs exclusive of the California Exposition and State Fair, the Los Angeles County Fair, 1-A District Agricultural Association, the Sixth District Agricultural Association, known and designated as the California Museum of Science and Industry, and citrus fruit fairs referred to in subdivision (a) of Section 19626, to be apportioned by and expended under the supervision of the Department of Food and Agriculture in the manner and for the purpose prescribed by Part 4 (commencing with Section 4401) of Division 3 of the Food and Agricultural Code and other applicable provisions of law including this section.

(b) The Department of Food and Agriculture shall apportion the money appropriated by this section to the several eligible county, district, or combined county and district agricultural fairs, or citrus fruit fairs on the basis of the need of each such fair for financial assistance from the state during the year for which the apportionment is to be made. No such fair shall receive such an apportionment in excess of such need as established by the department. In determining such need, the department shall take into consideration, as to each fair, all relevant factors, including, but not limited to the following:

(1) Net expenditures or revenues shown in the budget.

(2) The amount of money available to the fair from state, local, or any other sources.

(3) The amount of available reserve funds, except for the revenues accumulated under Section 19627.5.

(4) The amount of funds, if any, allocated under subdivision (b) of Section 19630.

(5) A performance report on fairs allocated funds pursuant to this section, to be prepared by the department.

(6) The establishment of a master plan by each fair receiving funds pursuant to this section.

(7) The submission of an annual maintenance program, as approved by the department.

No such county, district, or combined county and district agricultural fair, or citrus fruit fair shall receive an apportionment of more than eighty-five thousand dollars ($85,000) in any one year. No such fair shall be eligible for an apportionment pursuant to this section unless it has filed for each year subsequent to 1958 a statement of its operations during such year as provided in Section 4505 of the Food and Agricultural Code, irrespective of whether or not an apportionment for any such year or years was sought or made and all such fairs shall be deemed to be subject to such Section 4505 for all purposes.

SEC. 2.5. Section 19627.2 of the Business and Professions Code is amended to read:

19627.2. The funds made available pursuant to subdivision (d) of Section 19614, shall be allocated by the Director of Food and Agriculture for all of the following activities:

(a) For payment of premiums authorized by the Department of Food and Agriculture according to those categories established under Section 4501 of the Food and Agricultural Code.

(b) For purposes specified in Section 4401.5 of the Food and Agricultural Code.

(c) For the purposes specified in Section 51004 of the Education Code to support student organizational activities, approved by an appropriate local educational agency, in the fields of agricultural and vocational education. The Director of Food and Agriculture shall annually invite school districts, the Vocational Education Unit of the State Department of Education, and state-supported fairs to which Article 10 (commencing with Section 19620) of Chapter 4 of Division 8 is applicable, together and cooperatively, including the California Exposition and State Fair, to apply for funding for the purposes specified in Section 51004 of the Education Code.

The Director of Food and Agriculture shall develop a standard application procedure and criteria for approval of grants for projects funded under subdivisions (b) and (c), and ensure that the funds allocated under this section do not supplant existing activities currently conducted and funded from other sources, public or private.

Any funds not allocated pursuant to the provisions of this section shall be allocated under Section 19630. The Director of Food and Agriculture shall determine the need for allocation of funds under

Section 19630 prior to making any allocations pursuant to this section.

SEC. 3. Section 19630 of the Business and Professions Code is amended to read:

19630. (a) Any unallocated balance from subdivision (a) of Section 19620 or Section 19627 is hereby appropriated without regard to fiscal years for allocation by the Director of Food and Agriculture for capital outlay to county, district, combined county and district, or citrus fruit fairs for fair projects involving public health and safety, for fair projects involving major and deferred maintenance, for fair projects necessary due to any emergency, for projects that are required by physical changes to the fair site, for projects that are required to protect the fair property or installation, such as fencing and flood protection, and for the acquisition or improvement of any property or facility that will serve to enhance the operation of the fair.

It is the intent of the Legislature that these moneys be used primarily for those fairs whose sources of revenue may be limited for purposes described in this section.

(b) Any money subject to allocation pursuant to subdivision (a) may be allocated by the Director of Food and Agriculture to county, district, or combined county and district fairs for general operational support purposes. The limitations as to the maximum amount of apportionment provided for in Section 19627 are not applicable to such an allocation.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make funds available for projects involving the public health and safety as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 664

An act to amend and renumber Section 6575 of, and to add and repeal Article 7.5 (commencing with Section 6590) of Chapter 6 of Division 3 of, the Business and Professions Code, relating to barbering.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 6575 of the Business and Professions Code is amended and renumbered to read:

6571. The board may either refuse to issue or renew, or may suspend or revoke any certificate for any of the causes for

disciplinary action or for failure to pay any administrative fine levied under the authority of Article 7.5 (commencing with Section 6590).

SEC. 2. Article 7.5 (commencing with Section 6590) is added to Chapter 6 of Division 3 of the Business and Professions Code, to read:

Article 7.5. Administrative Fines

6590. In addition to the authority to conduct disciplinary proceedings under the provisions of Article 7 (commencing with Section 6570) the board, through its duly authorized representatives, shall have authority to assess administrative fines for the violation of Section 6522.5, 6523, 6524, 6525, 6526, 6527, 6527.5, 6528, 6534.9, 6535, 6536, 6537, 6537.1, 6546.1, 6550, 6550.6, 6565, 6571.5, 6572, 6573, 6573.5, 6574, 6575, 6575.6, 6576, 6578, 6579, 6580, 6581, 6582, 6582.5, 6583, 6584, 6585, 6585.5, 6600, 6601, 6602, 6603, 6604, 6605, 6606, or 6607 or the violation of any rules and regulations adopted by the board under the provisions of Section 6508.

6591.5. The board shall establish administrative fines for each section referred to in Section 6590, not to exceed twenty-five dollars ($25) for the first offense, fifty dollars ($50) for the second offense, and one hundred fifty dollars ($150) for the third offense. All moneys collected under this section shall be deposited in the State Board of Barber Examiners' Fund pursuant to Section 6628.

6592. The board, through its duly authorized representatives, shall issue a citation with respect to any violation for which an administrative fine may be assessed. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation shall contain an order of correction fixing a reasonable time for correction of the violation and stating that the appropriate administrative fine shall attach if said violation is not corrected within the time period specified.

6592.5. Any licensee served with a citation pursuant to Section 6590 may avoid the payment of the administrative fine by presentation of written proof satisfactory to the board, or its executive officer, that the violation has been corrected. Proof of correction shall be presented to the board, through its executive officer, in a time and manner prescribed by the board. The board may, in its discretion, extend for a reasonable period the time within which to correct the violation upon the showing of good cause. Notices of correction filed after the prescribed date shall not be acceptable and the administrative fine shall be paid.

6593. Persons to whom a notice of violation or a citation is issued and an administrative fine assessed may appeal the administrative fine to the board. All appeals of administrative fines shall be submitted in writing to the office of the board within 30 days of the date the notice of violation or a citation was issued. Appeals of administrative fines which are not submitted in a timely manner shall be rejected.

After a timely appeal has been filed with the board, the administrative fine shall be stayed until the appeal has been adjudicated.

6593.5. Persons appealing a notice of violation for which an administrative fine has been assessed, or their appointed representatives, shall appear in person before the board or an administrative law judge. The appellant may present written or oral evidence relating to the facts and circumstances relating to the notice of violation for which an administrative fine was issued.

6593.6. If a licensee notifies the board that he or she intends to contest a citation issued under Section 6590, the board shall afford an opportunity for a hearing. The board shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the citation or penalty, or directing other appropriate relief. The proceedings under this section shall be conducted in accordance with the provisions of Article 7 (commencing with Section 6570) and the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all powers granted therein.

6594. The board or its representative who conducts the appeal hearing may after the appeal has been concluded affirm, reduce, dismiss, or alter any charges filed in the notice of violation or any penalties assessed. In no event shall the infractions in the notice of violation or the administrative fine be increased.

The appellant shall be provided with a written copy of the board's decision relating to the appeal. All decisions rendered by the board or its representative under this section shall become final and there shall be no administrative appeal, except as otherwise provided by law.

6594.5. Appeals of administrative fines not filed in a timely manner or failure of the appellant or the appellant's representative to appear before the board at the appointed time except when good cause is shown, shall cause the administrative fine to become final and there shall be no administrative appeal except as otherwise provided by law.

6595. Persons who fail to pay administrative fines shall not be allowed to renew any certificates issued to them until all the fines are paid in addition to any renewal or restoration fees which are required.

6595.5. This article shall be operative until January 1, 1988, and on that date is repealed.

CHAPTER 665

An act to amend Sections 31251, 32027, 32055, 32058, and 32065 of the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 31251 of the Public Resources Code is amended to read:

31251. The conservancy may award grants to state agencies, local public agencies, and nonprofit organizations for the purpose of enhancement of coastal resources which, because of indiscriminate dredging or filling, improper location of improvements, natural or human-induced events, or incompatible land uses, have suffered loss of natural and scenic values. Grants under this chapter shall be utilized for the assembly of parcels of land within coastal resource enhancement areas to improve resource management, for relocation of improperly located or designed improvements, and for other corrective measures which will enhance the natural and scenic character of the areas. As provided in this chapter, the cost of acquisition of certain lands within coastal resource enhancement areas may be funded through the conservancy. Grants under this section may not be utilized as a method of acquisition of public park, wildlife, or natural areas, except as such uses may be incidental to a coastal resource enhancement project.

SEC. 2. Section 32027 of the Public Resources Code is amended to read:

32027. "Project" means an urban waterfront restoration activity located wholly or partly within the coastal zone for which a plan of urban waterfront restoration has been approved pursuant to Section 32059 and an urban waterfront restoration activity located within the territory of the Sacramento-Yolo Port District, the Stockton Port District, or on a river, lake, or reservoir located within a metropolitan statistical area for which a plan of urban waterfront restoration has been approved pursuant to Section 32059.5. Project includes, but is not limited to, lands, buildings, or roads, and improvements thereto, work, rehabilitation, structure, or property, real or personal, located wholly or partly within the coastal zone or within the territory of the Sacramento-Yolo Port District, the Stockton Port District, or on a river, lake, or reservoir located within a metropolitan statistical area, providing or designed to provide visitor serving commercial facilities, transient visitor accommodations, coastal or inland waterfront dependent industry, public utility systems, mass transit facilities, and public recreation and shoreline access facilities, including, but not limited to, parks, stairways, piers, and wharves,

boat berthing facilities, parking facilities, visitor service centers, or interpretive centers, shoreline protection and erosion control facilities, and administrative facilities necessary for the operation of coastal dependent activities. Project does not include new permanent residential structures, office structures, noncoastal dependent industrial facilities, or other noncoastal related uses, or industrial facilities or other uses that are unrelated to an inland waterfront.

SEC. 3. Section 32055 of the Public Resources Code is amended to read:

32055. The authority may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt the necessary rules and regulations to carry out this division.

SEC. 4. Section 32058 of the Public Resources Code is amended to read:

32058. The authority shall establish criteria for the selection of projects to receive financial assistance from the authority. The project selection criteria shall be based upon the economic soundness of the project itself and a reasonable expectation that all financial obligations of the project can be met by participating parties.

SEC. 5. Section 32065 of the Public Resources Code is amended to read:

32065. The authority, not later than March 31 of each year, shall submit to the Legislature a report of its activities for the preceding calendar year ending December 31. The report shall include a listing of applications received, a listing of applications accepted for financing, a specification of bonds sold, interest rates thereon, and whether bond sales were pursuant to public bid or were negotiated, a specification of the amount of bonds authorized but currently unsold, a projection of the authority's needs and requirements for the coming year, and a report of revenues and expenditures for the preceding fiscal year.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the California Coastal Commission and the State Coastal Conservancy may carry out their powers and responsibilities provided for by this act, and to clarify existing provisions of law, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 666

An act to amend Section 17053.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Either—

(A) On March 1 of the taxable year rented and occupied premises in this state which constituted his or her principal place of residence, or

(B) Was absent from this state on March 1 as a result of military service, but who rented and resided in premises in this state during 50 percent of the taxable year, including January 1 or December 31.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she

or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(f) The credit provided in this section shall be claimed on returns in that form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432.

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years beginning on or after the first

day of the calendar year following the effective date.

CHAPTER 667

An act to amend Sections 1804, 1808.1, 12804, 12812, 13352, 13352.5, 23161, 23166, and 23186 of, to add Sections 12804.1, and 12804.3 to, to add Chapter 7 (commencing with Section 3100) to Division 2 of, and to repeal and add Sections 12810 and 12810.5 of, the Vehicle Code, relating to vehicles.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 1804 of the Vehicle Code, as amended by Section 1 of Chapter 1212 of the Statutes of 1982, is amended to read:

1804. The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the license plate number of the vehicle involved in the offense, whether the license is commercial or noncommercial, whether the vehicle was transporting hazardous materials requiring placards pursuant to Section 27903, the date of hearing, and the judgment.

As to any abstract for which the original arrest and final conviction was for a violation of Section 23101 or 23102, as those sections read before January 1, 1982, or Section 23152 or 23153, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled only when it is readily available to the clerk of the court. All information required to be compiled pursuant to this paragraph shall be kept confidential in the records of the department and shall not be reported upon any driving record of any individual. The information required to be compiled pursuant to this paragraph shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the

blood-alcohol percentage exceeds the statutory amount. The Legislature finds and declares that the blood-alcohol percentage should not be used by the department for imposing licensing sanctions and the greater or lesser amount of the blood-alcohol percentage should not be used for any other rating purposes.

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

SEC. 2. Section 1804 of the Vehicle Code, as added by Section 2 of Chapter 1212 of the Statutes of 1982, is further amended to read:

1804. The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the license plate number of the vehicle involved in the offense, whether the license is commercial or noncommercial, whether the vehicle was transporting hazardous materials requiring placards pursuant to Section 27903, the date of hearing, and the judgment.

This section shall become operative on January 1, 1989.

SEC. 3. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. The department shall develop a notification process for the purpose of providing the employer or prospective employer of a driver who drives a vehicle requiring a certificate issued pursuant to Section 12524, 12804.1, or 12804.3 with a report, at the employer's request, showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, or driver's license revocations added to the driver's record while the employer's notification request remains valid and uncanceled. The request shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811.

When an employer no longer wishes to receive information pursuant to this section, the employer shall notify the department to cancel the request.

SEC. 4. Chapter 7 (commencing with Section 3100) is added to Division 2 of the Vehicle Code, to read:

CHAPTER 7. DRIVER CERTIFICATION

3100. (a) The Department of Motor Vehicles, in cooperation with the Department of the California Highway Patrol and the State Department of Health Services, shall adopt regulations containing special requirements for certification of drivers under Sections 12804.1 and 12804.3. The regulations may include the following:

(1) Standards and procedures for the implementation of certification under Sections 12804.1 and 12804.3.

(2) Standards for a certificate of driving experience issued pursuant to subdivision (e) of Section 12804 and a certificate of training issued by an employer pursuant to subdivision (c) of Section 12804.1 or subdivision (d) of Section 12804.3.

(3) Provision for entry in the records of the department of information concerning training to meet the requirements for issuance of a certificate of training pursuant to subdivision (c) of Section 12804.1 or subdivision (d) of Section 12804.3, including the name of any entity providing certification.

(4) Special requirements for operators from other states, territories, or countries, including states or provinces thereof, who, if licensed in this state, would be required to have a certificate pursuant to Section 12804.1 or 12804.3. The special requirements shall assure that these operators are qualified and hold valid driver's licenses.

(b) The Department of Motor Vehicles shall require a fee sufficient to pay the actual costs for processing each original and each renewal application by each employer issuing certificates of training pursuant to subdivision (c) of Section 12804.1 or subdivision (d) of Section 12804.3 or issuing certificates of driving experience pursuant to subdivision (e) of Section 12804. Employers providing certification pursuant to Section 12804.1 or 12804.3 to employees training by operating employer-owned equipment shall provide the training at no cost to the employee.

3101. In developing regulations pursuant to Section 3100, the Department of Motor Vehicles and the Department of the California Highway Patrol shall seek advice and input from the State Department of Health Services, the public, law enforcement, industry, and labor, in formulating these rules and regulations.

3102. Any regulations adopted pursuant to Section 3100 shall not apply to drivers holding a class 1 or class 2 driver's license on the effective date of the regulations until renewal of the class 1 or class 2 driver's license subsequent to that date.

3103. No employer shall require an employee to obtain certification pursuant to Section 12804.1 or 12804.3, unless the employee's duties upon obtaining the certification include actual operation of vehicles requiring that certification.

3104. The department shall submit a report to the Legislature on or before July 1, 1986, describing the progress in the implementation of the program and the establishment of regulations pursuant to this chapter.

SEC. 5. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and the understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant

shall be required to give an actual demonstration of his or her ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination of any applicant who holds a valid license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration. Any physical defect of the applicant, which, in the opinion of the department, is compensated to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class 1. Any combination of vehicles, including the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any three-axle vehicle weighing less than 6,000 pounds gross, any two-axle vehicle, any three-axle housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, including when a tow dolly is used between the towing vehicle and a towed motor vehicle, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach not exceeding 9,000 pounds gross or a trailer or semitrailer not exceeding 9,000 pounds gross designed and used exclusively for hauling livestock, or a trailer not exceeding 9,000 pounds gross used to transport agricultural products from a farm to a processing or handling point, or a trailer transporting a boat not exceeding 9,000 pounds gross, when the hauling of livestock or agricultural products or the towing of boats is not for compensation, or any schoolbus, school pupil activity bus, youth bus or farm labor vehicle, as specified in paragraph (1) of subdivision (d), except any other bus, two-wheel

motorcycle, or two-wheel motor-driven cycle.

(4) Class 4. Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2, or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 driver's licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration is in the licensee's immediate possession which has been issued within two years of the date of the operation of that vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed.

(d) (1) A class 3 license shall be valid for operating any schoolbus, school pupil activity bus, youth bus, or farm labor vehicle when a special driver's certificate to permit the operation of those vehicles is also in the immediate possession of the licensee. A class 3 license shall also be valid for operating any of those vehicles with no passengers aboard while receiving behind-the-wheel driver training from a person having in his or her immediate possession a special driver's certificate to permit the operation of the vehicle.

(2) A special driver certificate for the operation of a schoolbus, school pupil activity bus, youth bus, farm labor vehicle, or vehicle requiring operator certification pursuant to Section 12804.1 shall not be valid unless the driver has, in his or her immediate possession, a medical certificate issued within the past two years.

(e) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when the certificate is issued by an employer of the applicant, if the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when the certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties, if the applicant has also met the other examination requirements for the license for which he or she is applying.

(g) Notwithstanding subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on that license.

(h) Drivers of vanpool vehicles, may operate with class 3 licenses, but shall possess evidence of a medical examination required for a class 2 license when operating vanpool vehicles. The driver shall keep in the vanpool vehicle a statement signed under penalty of

perjury that he or she has not been convicted of reckless driving, drunk driving, or a hit and run offense in the last five years in order to be eligible to drive the vanpool vehicle.

SEC. 6. Section 12804.1 is added to the Vehicle Code, to read:

12804.1. (a) No person shall operate a motor vehicle which is required to display placards or markings pursuant to Section 27903 or which is hauling hazardous waste, as defined in Sections 25115 and 25117 of the Health and Safety Code, unless the person has in his or her possession a driver's license for the appropriate class of vehicle to be driven and a certificate issued by the department to permit the operation of vehicles requiring placards or markings pursuant to Section 27903 and vehicles hauling hazardous waste.

(b) Applicants for that certificate shall be required to submit a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine and submit to a test of the applicant's knowledge and understanding of the provisions of this code, other federal and state laws relating to the transportation of hazardous materials or hazardous waste, and safe driving practices relating to the transportation of hazardous materials pursuant to Section 27903 and the transportation of hazardous waste as provided in rules or regulations of the State Department of Health Services.

(c) The department may accept a certificate of training, as authorized under subdivision (b) of Section 3100, in lieu of the knowledge test required under subdivision (b) of this section, when the certificate of training is issued by an employer of the applicant.

(d) A certificate shall be valid for the operation of any vehicle class for which the person is licensed which is transporting hazardous materials requiring placards pursuant to Section 27903 or which is transporting hazardous waste, as defined in Sections 25115 and 25117 of the Health and Safety Code, provided that the person has in immediate possession a medical certificate issued within the past two years.

(e) Applicants for a certificate to drive vehicles transporting hazardous materials pursuant to Section 27903 or transporting hazardous waste as defined in Sections 25115 and 25117 of the Health and Safety Code, shall pay a fee of twelve dollars ($12) to the department.

(f) Renewal of the certificate shall be subject to the provisions of Section 12814, as they may apply to a certificate.

(g) Implementation dates for this section may be established by the department by regulation in order to accomplish an orderly certification program.

SEC. 7. Section 12804.3 is added to the Vehicle Code, to read:

12804.3. (a) No person shall operate combinations of vehicles with any tank configuration transporting bulk liquid loads unless the person has in his or her possession a certificate to operate that vehicle in addition to a valid class 1 license issued pursuant to Section 12804.

(b) Applicants for a certificate pursuant to this section shall pay

a fee of twelve dollars ($12) to the department.

(c) Applicants for the certificate shall be required to meet all licensing requirements for a class 1 license issued pursuant to Section 12804 and shall be required to submit to a test of the applicant's knowledge and understanding of the provisions of this code and safe driving practices relating to the operation of combinations of vehicles with any tank configuration transporting bulk loads.

(d) The department may accept a certificate of training, as authorized under subdivision (b) of Section 3100, in lieu of the knowledge test required under subdivision (c) of this section, when the certificate of training is issued by an employer of the applicant.

(e) Renewal of the certificate shall be subject to the provisions of Section 12814, as they may apply to a certificate.

(f) Implementation dates for this section may be established by the department by regulation in order to accomplish an orderly certification program.

SEC. 8. Section 12810 of the Vehicle Code is repealed.

SEC. 9. Section 12810 is added to the Vehicle Code, to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident resulting in damage to property or otherwise failing to comply with Section 20002 shall be given a value of two points.

(b) Any conviction of driving a motor vehicle while under the influence of alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug, shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) Except as provided in subdivision (f), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(e) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(f) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(g) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

SEC. 10. Section 12810.5 of the Vehicle Code is repealed.

SEC. 11. Section 12810.5 is added to the Vehicle Code, to read:

12810.5. (a) Any person, including persons holding certificates pursuant to Section 2512, 12517, 12519, 12521, 12523, 12804.1, or 12804.3, whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle. In applying the provisions of this subdivision to a driver, the department shall give due

consideration to the amount of use or mileage traveled in the operation of a motor vehicle.

(b) Any class 1 or class 2 licensed driver, except persons holding certificates pursuant to Section 2512, 12517, 12519, 12521, 12523, 12804.1, or 12804.3, whose driving record shows a violation point count of six or more points in 12 months, eight or more points in 24 months, or 10 or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle.

SEC. 12. Section 12812 of the Vehicle Code is amended to read:

12812. (a) Except as provided in subdivision (b), if a driver is presumed to be a negligent operator pursuant to Section 12810.5, the department may, as a condition of probation, issue a restricted driver's license to permit driving of a vehicle for which the person is licensed and also certificated, where required, while in the course of the driver's employment during specified hours of employment or any other restrictions as determined by the department. The restrictions shall be noted on the driver's license.

(b) If a driver who holds a certificate issued pursuant to Section 12804.1 or 12804.3, or both, is presumed to be a negligent operator as defined in subdivision (a) of Section 12810.5, the department may suspend or revoke the certificate or continue the certificate under terms of probation.

SEC. 13. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. For purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege, or if the court does not grant probation, or if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1. However, where (A) the driving privilege is required to be suspended by this paragraph due to the violation having occurred in vehicles requiring a class 1 or class 2 driver's license, and (B) the court grants probation and imposes the condition specified in subdivision (b) of Section 23161, the department shall issue the person a class 3 driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (e) of Section 13352.5. The department shall issue the restricted license upon receipt of an abstract of record from the court pursuant to Section 1803 certifying that the court has granted probation to the

person on conditions which include the condition specified in subdivision (b) of Section 23161.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages as defined in Section 16430.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of

subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

SEC. 14. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not suspend, pursuant to paragraph (3) of subdivision (a) of Section 13352, but shall restrict the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23152, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 and the court has restricted the privilege to operate a motor vehicle as provided in that subdivision.

(b) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not revoke, pursuant to paragraph (4) of subdivision (a) of Section 13352, but shall suspend for one year and, thereafter, restrict for two additional years, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23153, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23186, and the court has ordered the department to suspend the privilege to operate a motor vehicle as provided in that subdivision.

(c) The restriction of the driving privilege under subdivision (a) shall become effective 30 days from the date on which the person consented to participate in the program specified in subdivision (a), excluding any time of imprisonment ordered by the court, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23166 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon

application for an unrestricted license, whichever is sooner. If the person fails to pay the fee for a restricted license or the fee at the completion of the program or upon application for an unrestricted license, the Department of Motor Vehicles shall not issue a license. If the person fails to show evidence of participation within 30 days, excluding the time of imprisonment ordered by the court, the department shall suspend the driving privilege of the person for the time prescribed in paragraph (3) of subdivision (a) of Section 13352.

(d) The restriction of the driving privilege under subdivision (b) shall become effective 30 days from the end of the period of suspension, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23186 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to pay the fee for a restricted license or the fee at the completion of the program or upon application for an unrestricted license, the Department of Motor Vehicles shall not issue a license. If the person fails to show evidence of participation within 30 days from the end of the period of suspension, excluding any time of imprisonment ordered by the court to be served after the end of the period of suspension, the department shall revoke the driving privilege of the person for the time prescribed in paragraph (4) of subdivision (a) of Section 13352.

(e) The driving privilege restricted under subdivision (a) or (b) shall be limited to the hours for driving to and from the place of employment and during the course of employment and driving to and from activities required in an alcohol treatment program specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186. The department may set forth the times and days of restricted operation established by the court either on a special restricted license or upon the usual license form. The restriction shall continue in full force and effect until the person presents evidence satisfactory to the department that the person has completed the alcohol treatment program and has given proof of ability to respond in damages as defined in Section 16430. Except as provided in Section 23168, in no event shall the length of the restriction under subdivision (b) of Section 23166 or the total time of suspension and restriction under subdivision (b) of Section 23186 be for a period less than the applicable time period of suspension or revocation under paragraph (3) or (4) of subdivision (a) of Section 13352.

(f) Except as provided in this subdivision, the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352, 60 days from the date that the department notifies the person and the court of the intended action pursuant to subdivision (a) of Section 11837.1 of the Health and Safety Code, or the date ending the additional time ordered by the court under this subdivision, whichever is later. If the

person presents evidence satisfactory to the department that the court of jurisdiction has consented to the person's reinstatement in the program, the department shall continue in effect the restriction granted under subdivision (c), unless the person has previously been reinstated in the program on two or more occasions, in which case the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352. The evidence shall be presented within 45 days of the notice from the department of the intended action or such additional time, not to exceed an additional 45 days, for the determination as is required, ordered, and transmitted to the department by the court, which additional time is not caused by any action or failure to act by the person.

(g) All abstracts of record showing a conviction that are forwarded to the department pursuant to Section 1803 shall state whether the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186 and state the date on which the person consented to participate in the program.

(h) The department, in cooperation with the State Department of Alcohol and Drug Programs, shall adopt such regulations as it deems necessary to implement this section.

(i) This section shall not apply to persons whose offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

SEC. 15. Section 23161 of the Vehicle Code is amended to read:

23161. (a) Except as provided in subdivision (e), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than five hundred dollars ($500). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than five hundred dollars ($500) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the treatment program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(b) In any county where the county alcohol program administrator has certified and the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and

successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved and certified an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 16. Section 23166 of the Vehicle Code is amended to read:

23166. If the court grants probation to any person punished under Section 23165, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to all of the provisions of either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (3) of subdivision (a) of Section 13352.

(b) All of the following:

(1) Be confined in the county jail for at least 48 hours but not more than one year.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000).

(3) Have the privilege to operate a motor vehicle be restricted pursuant to Section 13352.5 for one year to necessary travel to and from that person's place of employment and to and from the treatment program described in paragraph (4) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. The Department of Motor Vehicles shall not suspend the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5, unless the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

(4) Participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court.

(c) This section shall become operative on July 1, 1983.

SEC. 17. Section 23186 of the Vehicle Code is amended to read:

23186. If the court grants probation to any person punished under Section 23185, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to all of the provisions of either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 120 days and pay a fine of at least three hundred ninety dollars ($390) but not more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (4) of subdivision (a) of Section 13352.

(b) All of the following:

(1) Be confined in the county jail for at least 30 days but not more than one year.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000).

(3) Pursuant to Section 13352.5, have the privilege to operate a motor vehicle be suspended for one year by the Department of Motor Vehicles and, after that one-year period, have the privilege restricted by the department for two additional years to necessary travel to and from that person's place of employment, and to and from the treatment program described in paragraph (4) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. The Department of Motor Vehicles shall not revoke the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5, unless the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

(4) Participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court.

SEC. 18. This act shall become operative July 1, 1985.

CHAPTER 668

An act to amend and repeal Section 14838 of the Government Code, relating to small businesses.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984]

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

SECTION 1. Section 14838 of the Government Code is amended to read:

14838. In order to facilitate the participation of small business in

state procurement and in construction contracts, and in service contracts, under the Office of the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair, or improvement) of state facilities, or the delivery of services, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small and Minority Business, for the extent of participation of small businesses in state procurement and in construction contracts, and in service contracts.

(b) Provide for small business preference in construction or the procurement of goods or the delivery of services where responsibility and quality are equal. The preference to small business shall be 5 percent for the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars ($50,000) for any bid.

(c) Give special consideration to small businesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses in their preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 14311, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on these subprojects.

(f) The Department of General Services shall develop regulations to implement the provisions of this section.

(g) This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1986, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1986, pursuant to Section 9611, Section 14838, as amended by Section 3 of Chapter 838 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 669

An act to add Article 14 (commencing with Section 13121) to Chapter 2 of Division 7 of the Food and Agricultural Code, relating to health, and making an appropriation therefor.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Article 14 (commencing with Section 13121) is added to Chapter 2 of Division 7 of the Food and Agricultural Code, to read:

Article 14. Birth Defect Prevention

13121. This article shall be known and may be cited as the Birth Defect Prevention Act of 1984.

13122. It is the purpose of the Legislature in enacting this chapter to prevent pesticide induced abortions, birth defects, and infertility.

13123. For purposes of this chapter, the following definitions apply:

(a) "Adverse reproductive effect" means a statistically significant adverse effect on parental reproductive performance and the growth and development of offspring, including gonadal function, conception, and parturition; abortions; birth defects; stillbirths; and resorptions.

(b) "Data gap" means that the department does not have on file a full set of valid mandatory health effects studies.

(c) "Mandatory health effects study" means adverse reproductive effect, chronic toxicity, mutagenicity, neurotoxicity, oncogenicity, and teratogenicity studies required for full registration or licensing of pesticides in California, as of July 1, 1983.

(d) "Teratogenic" means the property of a substance or mixture of substances to produce or induce functional deviations or developmental anomalies, not heritable, in or on an animal embryo or fetus.

(e) "Mutagenic effect" means the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations.

(f) "Chronic toxicity" means the property of a substance or mixture of substances to cause adverse effects in an organism upon repeated or continuous exposure over a period of at least one-half the lifetime of that organism.

(g) "Oncogenic" means the property of a substance or a mixture of substances to produce or induce benign or malignant tumor formations in living animals.

(h) "Neurotoxic effect" means any adverse effect on the nervous system such as delayed-onset locomotor ataxia resulting from single administration of the test substance, repeated once if necessary.

13123.5. To the extent feasible, health effects studies shall be conducted in accordance with standards and protocols established pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 135 et seq.).

13124. The department shall report all of the following to the Legislature:

(a) By April 1, 1985, a list of pesticide active ingredients currently

registered in California.

(b) By April 1, 1985, a list of the department's mandatory health effects study requirements for full registration of pesticides in California as of July 1, 1983.

(c) By July 1, 1985, a list of mandatory health effects studies on file at the department for each pesticide active ingredient.

13125. Not later than December 31, 1985, the department shall report the following information for each active pesticide ingredient presently registered in California:

(a) The department's determination of whether each of the studies specified in Section 13124 is valid, complete, and adequate. This determination shall be based on a thorough evaluation of the studies, but does not require an onsite audit of the laboratory that produced the study.

(b) A list of data gaps for each active pesticide ingredient.

(c) The department's determination of whether each study shows adverse reproductive effects, chronic toxicity, mutagenic effects, neurotoxic effects, oncogenic effects, or teratogenic effects.

(d) For each active pesticide ingredient for which an effect described in subdivision (c) has been shown, or a data gap exists, a list of the amount sold in California during 1985, and whether this active ingredient is sold for home or agricultural use.

(e) If all of the data cannot be acquired by the department by the reporting deadline established by this section, the department shall report the data available, and provide a supplemental report with the remaining data by April 1, 1986.

13126. No new active pesticide ingredient shall be conditionally registered or licensed when any of the mandatory health effects studies, as defined in subdivision (c) of Section 13123, is missing, incomplete, or of questionable validity unless the registration is based on previous consultation with the State Director of Health Services and the Director of Industrial Relations.

13127. (a) Not later than December 31, 1985, the department shall identify 200 pesticide active ingredients which the department determines have the most significant data gaps, widespread use, and which are suspected to be hazardous to people. Not later than 30 days after the report issued pursuant to Section 13125, the department shall notify each registrant of a pesticide product containing any of the identified 200 pesticide active ingredients of the applicable data gap required to be filled pursuant to this section.

(b) Not later than December 31, 1985, the department shall also adopt a timetable for the filling of all data gaps on all pesticide active ingredients, other than those identified by the department pursuant to subdivision (a), which are currently registered or licensed in California. The department shall notify registrants of the applicable data gaps and the scheduled time to initiate and complete studies as provided in the timetable.

(c) (1) Not later than September 1, 1986, the department shall determine whether a test has been initiated to fill each of the data

gaps for each pesticide active ingredient identified in subdivision (a). If no test has been initiated, the department shall fill data gaps in accordance with procedures provided in subparagraph (B) of paragraph (2) of subdivision (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients that the administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subdivision (c) of Section 136a of Title 7 of the United States Code. On or before July 1, 1986, the director shall, by regulation, prescribe procedures for resolving disputes or funding the filling of data gaps. The procedures may include mediation and arbitration. The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute within the timetable established in subdivision (a) of Section 13127.

(2) The department shall also obtain the data which is identified in subdivision (b), according to the timetable and procedures specified in this section.

(d) (1) Not later than March 1, 1987, the director shall again determine whether tests have been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If the tests have not been initiated or if, having been initiated, the tests are not completed within a reasonable time not to exceed four years, the director shall obtain the required test results. The director may utilize assessments charged to those registrants of the active ingredient for which the data gaps exist in amounts necessary to cover the department's expenses in filling the data gaps. Any assessments shall be made pursuant to Section 12824 of the Food and Agricultural Code. The director may also request an appropriation to be used in combination with assessments to obtain the required test results. The director shall initiate the tests as soon as possible, and the tests shall be completed within a reasonable time, not to exceed four years after initiation.

The director shall furnish not less than 30 days' public notice of any proposed action under this section, stating the reasons therefor and allowing public comment thereon. Copies of this notice and final decision shall be provided to the appropriate committees of the Legislature.

(2) The director shall monitor compliance with the timetable established pursuant to subdivision (b) of Section 13127. If the director determines that tests are not initiated or completed according to the timetable, the director shall obtain the required test results as provided in paragraph (1).

(e) (1) This section does not apply to any product which the director determines has limited use or that substantial economic hardship would result to users due to unavailability of the product

and there is not significant exposure to the public or workers and the product is otherwise in compliance with federal law.

(2) The director may not, pursuant to this subdivision, exempt all pesticide products containing the same pesticide active ingredient unless it is determined that the pesticide active ingredient has only limited use, there is insignificant exposure to workers or the public, and the products are otherwise in compliance with federal law. Any exemption issued pursuant to this paragraph shall expire at the end of three years after it is issued.

(f) (1) Whenever the director exercises the authority provided in paragraph (1) of subdivision (e), he or she shall give public notice of the action stating the reasons for exempting the pesticide product from the data requirements of this article. Copies of this notice shall be provided to the appropriate policy committees of the Legislature.

(2) Whenever the director acts pursuant to paragraph (2) of subdivision (e), the director shall furnish not less than 30 days' public notice of the proposed action, stating the reasons for exempting the pesticide product from the data requirements of this article and allowing public comment thereon. Copies of the notice and the final decision shall be provided to the appropriate policy committees of the Legislature.

13128. No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate the purchased pesticide into an end use product shall be required to submit or cite data pertaining to the safety of the purchased product or to offer to pay reasonable compensation for the use of any such data.

13129. (a) If the director, after evaluation of the health effects study of an active ingredient, finds that a pesticide product containing the active ingredient presents significant adverse health effects, including reproduction, birth defects, or infertility abnormalities, the director shall take cancellation or suspension action against the product pursuant to Section 12825 or 12826.

(b) The State Director of Health Services shall have access to mandatory health effects studies and other health effects studies on file at the Department of Food and Agriculture, and may, based upon the determination of the State Director of Health Services, provide advice, consultation, and recommendations concerning the risks to human health associated wth exposure to the substances tested.

13130. If any provision of this article or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

CHAPTER 670

An act to amend Section 82013 of, and to add Sections 83116.5, 84105, 91008.5, 91013.5, and 91015 to, the Government Code, relating to the Political Reform Act.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 82013 of the Government Code is amended to read:

82013. "Committee" means any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling five hundred dollars ($500) or more in a calendar year.

(b) Makes independent expenditures totaling five hundred dollars ($500) or more in a calendar year; or

(c) Makes contributions totaling ten thousand dollars ($10,000) or more in a calendar year to or at the behest of candidates or committees.

A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

SEC. 2. Section 83116.5 is added to the Government Code, to read:

83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. Provided, however, that this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and that a violation of this section shall not constitute an additional violation under Chapter 11.

SEC. 3. Section 84105 is added to the Government Code, to read:

84105. A candidate or committee which receives contributions of five thousand dollars ($5,000) or more from any person shall inform the contributor that he or she may be required to file campaign reports. The notification shall occur within two weeks of receipt of the contributions but need not be sent to any contributor who has an identification number assigned by the Secretary of State issued pursuant to Section 84101.

SEC. 4. Section 91008.5 is added to the Government Code, to read:

91008.5. No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title

after the commission has issued an order pursuant to Section 83116 against that person for the same violation.

SEC. 5. Section 91013.5 is added to the Government Code, to read:

91013.5. In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in small claims, municipal, or superior court, depending on the jurisdictional amount, for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(a) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(b) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(c) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

SEC. 6. Section 91015 is added to the Government Code, to read:

91015. The provisions of this chapter shall not apply to violations of Section 83116.5.

SEC. 7. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 671

An act to add Section 21236 to the Government Code, relating to public employee retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1984 Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 21236 is added to the Government Code, to read:

21236. (a) The board shall transfer, on October 1, 1984, and at the beginning of each succeeding calendar year, from any funds in the Investment Dividend Disbursement Account not then needed for the purposes of Section 21235, the amount required for the purposes

of this section, into a special account which is appropriated to the board without regard to fiscal years, for use for the sole purpose of providing quarterly increases from October 1, 1984, through December 31, 1988, as specified in subdivision (d) in the monthly allowance of every person who was eligible to receive the 10 percent quarterly increase provided by Section 21232 on September 30, 1984.

(b) Whenever the board determines that there are sufficient funds in the special account created pursuant to subdivision (a), the board shall apply those funds to the increases authorized by this section. If the funds in the special account are not sufficient to pay the increases prescribed in subdivision (d), the board shall proportionately reduce all payments.

(c) The board shall inform each recipient of benefits under subdivision (a) that the increases are not cumulative and shall not be included in their base allowance and may be available for only a limited time.

(d) The total quarterly increases payable for the period from October 1, 1984, through December 31, 1988, shall be the difference between the July 1, 1984, 10 percent quarterly payment under Section 21232 and the amount payable under Section 21235 at the time a payment under this section would be made. Whenever the amount payable under Section 21235 is equal to or greater than the amount payable under Section 21232 on July 1, 1984, there shall be no amount payable under this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may become operative during the 1984–85 fiscal year and on or before the expiration on October 1, 1984, of certain limited adjustments in retirement allowances, it is necessary that this act take effect immediately.

CHAPTER 672

An act to add Section 1128 to the Labor Code, relating to arbitration.

[Approved by Governor August 16, 1984. Filed with Secretary of State August 17, 1984.]

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

SECTION 1. Section 1128 is added to the Labor Code, to read:

1128. (a) Where a party to a collective bargaining agreement prevails in a court action to compel arbitration of disputes concerning the collective bargaining agreement, the court shall award attorney's fees to the prevailing party unless the other party

has raised substantial and credible issues involving complex or significant questions of law or fact regarding whether or not the dispute is arbitrable under the agreement.

If the dispute is later found to be not arbitrable under the collective bargaining agreement, any award made pursuant to this subdivision shall be vacated and those sums paid to satisfy the award shall be reimbursed to the payor.

(b) Where a party to a collective bargaining agreement appeals the decision of an arbitrator regarding disputes concerning the collective bargaining agreement, the court shall award attorney's fees to the prevailing appellee unless the appellant has raised substantial issues involving complex or significant questions of law.

(c) This section shall not apply to public employment.

CHAPTER 673

An act to amend Sections 19853, 19854, 19870, 19871, and 19995.1 of, and to add Sections 19821 and 19871.2 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1984. Filed with Secretary of State August 18, 1984.]

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

SECTION 1. Section 19821 is added to the Government Code, to read:

19821. Notwithstanding any other provision of law, the director may authorize higher allowances than those provided by current regulations for reimbursement of traveling expenses of officers and employees of the state while traveling on official state business in the greater Los Angeles metropolitan area during, or immediately before or after, the 1984 Olympics.

SEC. 2. Section 19853 of the Government Code is amended to read:

19853. (a) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: the first day of January, the third Monday in January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the second Monday in October, the 11th day of November, the day after Thanksgiving, the 25th day of December, the day chosen by an employee pursuant to the provisions of Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be

deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of these holidays, shall be entitled to be paid compensation or given compensating time off for that work in accordance with their classification's assigned workweek group. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee.

(b) If the provisions of subdivision (a) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Any employee, who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall be entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, February 12, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, and any personal holiday chosen pursuant to Section 19854. The department head or designee may require an employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs.

(2) When November 11 falls on a Saturday, employees shall be entitled to the preceding Friday as a holiday with pay.

(3) When a holiday, other than a personal holiday or November 11, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, only accrue an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Less than full-time employees shall receive holidays in accordance with Department of Personnel Administration rules.

SEC. 3. Section 19854 of the Government Code is amended to read:

19854. (a) Every employee, upon completion of six months of his or her initial probationary period in state service, shall be entitled to one personal holiday per fiscal year. The personal holiday shall be credited to each full-time employee on the first day of July. No employee shall lose a personal holiday credit because of the change from calendar to fiscal year crediting. The department head or designee may require the employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs. The department may provide by rule for the granting of this holiday for employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 4. Section 19870 of the Government Code is amended to read:

19870. As used in this article:

(a) "Industrial disability leave" means temporary disability as defined in Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code and includes any period in which the disability is permanent and stationary and the disabled employee is undergoing vocational rehabilitation.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution if he had not vacated his position.

(c) "Nonrepresented employee" means an employee designated by the director who is also excluded from, or not otherwise subject to, collective bargaining.

(d) "Serious injury" means a serious physical injury which is directly and specifically caused by an assault by an inmate, ward, or parolee under the jurisdiction of the California Department of Corrections or the Department of Youth Authority; or which is directly and specifically caused by responding to, returning from, or fighting an "active fire," as defined in Sections 4103, 4104, 4170, and 4170.5 of the Public Resources Code. A serious injury, for the purposes of Section 19871.2, does not include either presumptive, stress related disabilities, or a physical disability having mental origins.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 5. Section 19871 of the Government Code is amended to

read:

19871. (a) Except as provided in Section 19871.2, when a state officer or employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall become entitled, regardless of his or her period of service, to receive industrial disability leave and payments, in lieu of workers' compensation temporary disability payments and payments under Section 19863, for a period not exceeding 52 weeks within two years from the first day of disability. Such payments shall be in the amount of the employees full pay less withholding based on his or her exemptions in effect on the date of his or her disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section 19875. Thereafter, the payment shall be two-thirds of full pay. Payments will be additionally adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers' Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustment will be made for benefits to which the employee's family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contribution to the Public Employees' Retirement System and state employer normal retirement contributions to the State Teachers' Retirement System shall be made on the basis of full pay and state contribution pursuant to Sections 22825.1 and 22826 of this code because of the employee's enrollment in a health benefits plan shall continue.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 6. Section 19871.2 is added to the Government Code, to read:

19871.2. When a nonrepresented employee is temporarily disabled for more than 22 consecutive working days through a serious injury, as defined in subdivision (d) of Section 19870, he or she shall receive an enhanced industrial disability leave benefit. The enhanced benefit shall be equivalent to the injured employee's net take home salary on the date of occurrence of injury. Eligibility and benefits may continue for no longer than one year after the date of occurrence of the injury. For the purposes of this section, "net salary" means the amount of salary received after federal income tax, state

income tax, and the employee's retirement contribution has been deducted from the employee's gross salary.

The final decision as to whether an employee is eligible for, or continues to be eligible for, enhanced benefits shall rest with the appointing authority or his or her designee. The appointing authority may periodically review the employee's condition by any means necessary to determine an employee's continued eligibility for enhanced benefits.

SEC. 7. Section 19995.1 of the Government Code is amended to read:

19995.1. For the purpose of meeting the needs of the state service for continuing employee educational development and the upgrading of employee skills, the department may prescribe: (a) conditions under which employees may be assigned to take out-service training; and (b) conditions under which employees may be reimbursed for tuition fees and other necessary expenses in connection with out-service training authorized by the appointing power to meet the needs of the service. The conditions prescribed by the department shall include but not be limited to the requirements that such training shall be of direct value to the state, be relevant to the employee's career development in state service, and be limited to providing knowledges or skills that cannot be provided through available in-service training. The department shall further prescribe the conditions under which an employee may be required to reimburse the state for the costs of such training in the event he or she fails to remain in state service for a reasonable time after receiving the training.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 8. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 2—Association of California State Attorneys, dated August 7, 1984.

(b) Unit 5—California Association of Highway Patrolmen, dated July 3, 1984.

(c) Unit 6—California Correctional Peace Officers Association, dated August 7, 1984.

(d) _____.

(e) Unit 8—California Department of Forestry Employees' Association, dated July 3, 1984.

(f) ———.

(g) Unit 13—International Union of Operating Engineers, Stationary Engineers Division, dated July 3, 1984.

(h) Unit 16—Union of American Physicians and Dentists, dated July 20, 1984.

(i) ———

(j) Unit 19—American Federation of State, County and Municipal Employees, dated July 3, 1984.

SEC. 9. Notwithstanding Section 3517.6 of the Government Code and subdivision (b) of Section 19853 of the Government Code, for the 1984–85 fiscal year, a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code shall not be controlling over the provisions of subdivision (a) of Section 19853 of the Government Code which provide a holiday for state employees on the second Monday in October.

SEC. 10. Notwithstanding Section 3517.6 of the Government Code and subdivision (b) of Section 19854 of the Government Code, for the 1984–85 fiscal year, a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code shall not be controlling over the provisions of subdivision (a) of Section 19854 of the Government Code which provide one personal holiday for state employees.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable in the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 674

An act to amend Sections 20022, 20390, 20950, 21021, 21290, 21365.5, 21365.6, and 22816 of, to add Sections 20013.7, 20022.1, 20390.1, 20653, 20813.1, 20950.1, 21224.5, 21251.146, 21251.147, 21290.01, and 21296.01 to, and to add Chapter 5.5 (commencing with Section 19994.20) to Part 2.6 of Division 5 of Title 2 of, the Government Code, relating to state employment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1984. Filed with Secretary of State August 18, 1984]

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

SECTION 1. Chapter 5.5 (commencing with Section 19994.20) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 5.5. ACCIDENT REDUCTION INCENTIVE PROGRAM

19994.20. (a) The department, after consultation with the Office of Insurance and Risk Management in the Department of General Services, may meet and confer with representatives of the recognized employee organization for any appropriate unit pursuant to the State Employer-Employee Relations Act on the implementation of an accident prevention incentive award program covering employees in that unit. The purpose of the program shall be to reduce, through the cooperative effort of labor and management, the number of on-the-job injuries to, and the use of sick leave by, state employees.

(b) The department shall report to the Legislature annually on the success of any programs implemented pursuant to this section.

SEC. 2. Section 20013.7 is added to the Government Code, to read:

20013.7. (a) Effective January 1, 1985, there shall be an alternative level of benefits available to the following state miscellaneous members: (1) persons who are excluded from the definition of state employee in subdivision (c) of Section 3513; (2) persons who are supervisory employees as defined in Section 3522.1; (3) employees of the executive branch of government who are not members of the civil services; and (4) employees in bargaining units where a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section. This section shall not apply to employees of the California State University System. This section shall not apply to any employee described by Section 20364 unless and until the employer, as defined in Section 20817, adopts a resolution approving that application.

(b) Members eligible to participate in an alternative level of benefits (hereinafter in this part referred to as Two Tier) may make an irrevocable election to: (1) become subject to Two Tier benefits provided for in Section 21251.146 for all past and future state miscellaneous service; or (2) become subject to Two Tier benefits provided for in Section 21251.147 for state miscellaneous service rendered on and after January 1, 1985. Any election by a member in employment on November 1, 1984, to be subject to Section 21251.146 or Section 21251.147 shall also be signed by the spouse of the member and that signature shall be notarized.

By November 1, 1984, the board shall provide each member eligible to participate in Two Tier the option to elect such benefit prior to January 1, 1985.

The appointing authority, in conjunction with the Department of Personnel Administration, shall ensure that each employee eligible for the Two Tier benefit receives sufficient information to permit the employee to make an informed election. The Public Employees' Retirement System shall prepare and mail adequate written informational material and election forms.

On an annual basis, the board shall provide a 30-day period for members to elect the Two Tier level of benefits provided for in Section 21251.146 or Section 21251.147. Employees who previously elected Section 21251.147 may make an irrevocable election to become subject to Section 21251.146 for all past state miscellaneous service during this annual election period.

(c) Employees who become state miscellaneous members described in subdivision (a) or optional members under Article 3 (commencing with Section 20360) of Chapter 3 of this part on or after January 1, 1985, shall be subject to Section 21251.147 unless an election is filed with the board to be subject to Section 21251.13. The election shall be made within 120 days of becoming a member.

(d) A person who is a state miscellaneous member prior to January 1, 1985, and ceased, prior to January 1, 1985, to be a member pursuant to Section 20390 shall, upon becoming a state miscellaneous member on or after January 1, 1985, be subject to Section 21251.147 unless an election is filed with the board to be subject to Section 21251.13 or 21251.146. The election shall be made within 120 days of becoming a member.

Except as otherwise provided in this part, a state miscellaneous member subject to Section 21251.146 or 21251.147 is subject to all other provisions applicable to state miscellaneous members except those provisions that provide for the payment of an annuity based on those contributions.

(e) The board shall report to the Governor, the Legislature, and the Department of Personnel Administration on the savings which are the result of the implementation of a Two Tier retirement plan for state miscellaneous members. The report shall first be submitted in April 1986, and annually in April of every year thereafter until April 1990.

SEC. 3. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5; (4) any disability or workers' compensation payments to safety members in

accordance with Sections 4800 and 4850 of the Labor Code; (5) any special compensation for performing normally required duties such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out of class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, split shift differential and substitute differential in Sections 45196 and 88196 of the Education Code; (6) compensation for uniforms, except as provided in Section 20022.1; (7) any other payments the board may determine to be compensation.

(b) "Compensation" shall not include: (1) the provision by an employer of any medical or hospital service or care plan or insurance plan (other than the purchase of annuity contracts referred to in this section) for its employees, any contribution by an employer to meet the premium or charge for such plan, or any payment into a private fund to provide health and welfare benefits for its employees; (2) any payment by an employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act; (3) amounts not available for payment of salaries and which are applied by an employer for the purchase of annuity contracts including those which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States; (4) the bonus sum provided for low-paid state employees in the Budget Act of 1975; (5) any benefits paid pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division; (6) employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to paragraph (3) of subdivision (a) shall not be considered to be employer's payments; (7) payments for lump-sum vacation or compensating time off upon termination of employment; (8) final settlement pay; (9) lump-sum sick leave payment; (10) payments for overtime, including pay in lieu of vacation or holiday; (11) special compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, bonuses for duties performed after regular work shift; and (12) any other payments the board may determine not to be compensation.

SEC. 4. Section 20022.1 is added to the Government Code, to read:

20022.1. (a) This section shall apply to the following state employees: (1) persons who are excluded from the definition of state employee in subdivision (c) of Section 3513; (2) persons who are supervisory employees as defined in Section 3522.1; (3) employees of the executive branch of government who are not members of the civil service; and (4) employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become

subject to this section.

(b) For the state employees covered under subdivision (a), compensation for uniforms shall not constitute "compensation" for the purposes of the computation of retirement contributions by employees and the state or for the purposes of the calculation of retirement benefits.

SEC. 5. Section 20390 of the Government Code is amended to read:

20390. A person ceases to be a member:

(a) Upon retirement, except while participating in reduced worktime for partial service retirement.

(b) If he or she is paid his or her normal contributions, unless payment of contributions is the result of an election pursuant to paragraph (1) of subdivision (b) of Section 20013.7, or if he or she is paid a portion of his or her normal contributions where more than one payment is made, or these contributions are held pursuant to Section 20208. For the purposes of this subdivision, (1) deposit in the United States mail of a warrant drawn in favor of a member, addressed to the latest address of the member on file in the office of this system, constitutes payment to the member of the amount for which the warrant is drawn or (2) electronic fund transfer to the person's bank, savings and loan association or credit union account, constitutes payment to the person of the amount of the warrant of funds electronically transferred.

(c) If the member has less than five years of service credit and no accumulated contributions in the retirement fund at the time of termination of service.

SEC. 6. Section 20390.1 is added to the Government Code, to read:

20390.1. Notwithstanding Section 20390, a person who is subject to Section 21251.146 or Section 21251.147 ceases to be a member if he or she has less than 10 years of service credit at the time of termination of service, except a member who had five years of credited service prior to January 1, 1985.

SEC. 7. Section 20653 is added to the Government Code, to read:

20653. A member who elects to be subject to Section 21251.146 shall be paid his or her accumulated contributions plus current year interest through the date on which the claim is filed with the office of the Controller starting April 1, 1985, for service rendered as a state miscellaneous member.

SEC. 8. Section 20813.1 is added to the Government Code, to read:

20813.1. A member who elects to be subject to Section 21251.146 shall be credited at no cost with all creditable previous state miscellaneous service after the member is credited with one year of service under Section 21251.146. The member shall apply for and identify time periods for such service to the board. The one-year requirement shall be waived if the person becomes disabled and is otherwise eligible for a disability retirement benefit.

SEC. 9. Section 20950 of the Government Code is amended to read:

20950. A member shall be retired for service upon his written application to the board if he has attained age 50 and is credited with five years of state service, except as provided in Sections 20950.1, 20952, and 20952.5.

SEC. 10. Section 20950.1 is added to the Government Code, to read:

20950.1. A state miscellaneous member, other than one subject to Section 21251.13, shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with 10 years of state service, except that a member who elects pursuant to Section 21251.146 or Section 21251.147 may retire with less than 10 years of state service if the member had five years of service prior to January 1, 1985.

SEC. 11. Section 21021 of the Government Code is amended to read:

21021. Any member incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he is credited with five years of state service, regardless of age, unless such person has elected to become subject to Section 21251.146 or Section 21251.147.

(b) Any member subject to Section 21251.146 or Section 21251.147 who becomes incapacitated for the performance of duty shall be retired for disability pursuant to this chapter if he is credited with 10 years of state service, regardless of age, except that a member may retire for disability if he or she had five years of state service prior to January 1, 1985.

SEC. 12. Section 21224.5 is added to the Government Code, to read:

21224.5. Notwithstanding anything to the contrary in this article, the monthly allowance of a person subject to Section 21251.146 shall be adjusted annually beginning with the second calendar year following retirement for time commencing on April 1 and payable on the first day of May. The adjusted monthly allowance shall be equal to the base allowance increased by 3 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made.

SEC. 13. Section 21251.146 is added to the Government Code, to read:

21251.146. The retirement allowance for a state miscellaneous member who has elected the benefits of this section is a pension equal to the fraction of one-hundredth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed year in the following table, multiplied by the member's number of years of state miscellaneous service:

Age at Retirement	Fraction	Age at Retirement	Fraction
55	.7500	61	1.0500
55¼	.7625	61¼	1.0625
55½	.7750	61½	1.0750
55¾	.7875	61¾	1.0875
56	.8000	62	1.1000
56¼	.8125	62¼	1.1125
56½	.8250	62½	1.1250
56¾	.8375	62¾	1.1375
57	.8500	63	1.1500
57¼	.8625	63¼	1.1625
57½	.8750	63½	1.1750
57¾	.8875	63¾	1.1875
58	.9000	64	1.2000
58¼	.9125	64¼	1.2125
58½	.9250	64½	1.2250
58¾	.9375	64¾	1.2375
59	.9500	65	1.2500
59¼	.9625		
59½	.9750		
59¾	.9875		
60	1.0000		
60¼	1.0125		
60½	1.0250		
60¾	1.0375		

SEC. 14. Section 21251.147 is added to the Government Code, to read:

21251.147. The retirement allowance for a state miscellaneous member covered under this section shall be: the sum of service rendered subsequent to the effective date of the election, computed pursuant to Section 21251.146, added to service rendered prior to the effective date of the election, computed pursuant to Section 21251.13.

Whenever Two Tier service is referred to in this part, it is understood that service credited as Two Tier pursuant to Section 21251.147 shall be considered as service credited under Section 21251.146.

SEC. 15. Section 21290 of the Government Code is amended to read:

21290. Upon retirement for disability a state miscellaneous member or school member who has attained age 60 shall receive his or her service retirement allowance, except as provided in Section 21290.01.

SEC. 16. Section 21290.01 is added to the Government Code, to read:

21290.01. Upon retirement for disability, a state miscellaneous member, other than one subject to Section 21296, who has attained age 65 shall receive his or her service retirement allowance.

SEC. 17. Section 21296.01 is added to the Government Code, to read:

21296.01. The disability retirement pension for a state miscellaneous member whose service is subject to Section 21251.146 shall be either of the following:

(a) Ninety percent of the factor applicable at age 65 as set forth in Section 21251.146 times final compensation multiplied by the number of years of service credited to him or her.

(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of the benefit which would be payable to the member had the member continued in employment until age 65, but in such case the retirement allowance shall not exceed one-third of the final compensation.

SEC. 18. Section 21365.5 of the Government Code is amended to read:

21365.5. Upon the death of a member who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, and who is eligible to retire and in circumstances in which the basic death benefit is payable other than solely that of membership in a county retirement system, or a retirement system maintained by the university, a monthly allowance equal to one-half of and derived from the same source as the unmodified retirement allowance which the member

would have been entitled to receive if he or she had retired for service on the date of his or her death shall be payable:

(a) To the surviving wife of a male member as long as she lives or until her remarriage; or

(b) To a surviving husband of a female member as long as he lives or until remarriage; or

(c) To the children under age 18 collectively if there is no surviving spouse or if the surviving spouse dies or remarries before all children of the deceased member attain age 18, until every child dies or attains age 18: provided, that no child shall receive any allowance after marrying or attaining the age of 18.

Where a member does not have a surviving spouse nor any children under the age of 18 years at the time of death, no allowance shall be payable under this section.

No allowance shall be payable under this section if a special death benefit is payable.

The allowance provided by this section shall be paid in lieu of the basic death benefit but a person, or such person's guardian, qualifying for the allowance may elect before the first payment on account of it to receive such basic death benefit in lieu of the allowance.

Any person who is receiving the allowance under this section on October 1, 1959, shall have the right to elect, not later than ninety (90) days after the date upon which notice of such right is mailed to him or her by this system, to receive in lieu of further payments of the allowance, a sum equal to the excess of the basic death benefit which was otherwise payable on account of the member's death over the sum of the monthly payments made prior to such election.

If the total of the payments made hereunder is less than the basic death benefit which was otherwise payable on account of the member's death, the amount of the basic death benefit less any payments made pursuant to this section shall be paid in a lump sum as follows:

(a) If the person last entitled to the allowance is the remarried spouse of such member, to such spouse;

(b) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to the allowance.

The board shall compute the amount by which benefits paid pursuant to this section exceed the benefits which would otherwise be payable and shall charge any such excess against the contributions of the state so that there shall be no increase in contributions of members by reason of benefits paid pursuant to this section. As used in this section, "a surviving wife" means a wife that was married to the member for at least one year prior to his death, a "surviving husband" means a husband that was married to the member for at least one year prior to the member's death, and "child" includes a posthumously born child of the member.

On and after the operative date of the amendment to this section at the 1971 Regular Session, this section shall apply to all contracting agencies and to the employees of such agencies with respect to

deaths occurring after such operative date, whether or not such agencies have previously elected to be subject to this section.

SEC. 19. Section 21365.6 of the Government Code, as amended by Chapter 333 of the Statutes of 1984, is amended to read:

21365.6. The surviving spouse of a member who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, and who is eligible to receive an allowance pursuant to Section 21365.5, shall instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2. The surviving spouse of a member who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, and who is eligible to receive a special death benefit in lieu of an allowance under Section 21365.5, may elect to instead receive an allowance which is equal to the amount that the member would have received if the member had been retired from service on the date of death and had elected optional settlement 2.

The allowance shall be payable as long as the surviving spouse lives or until remarriage. Upon the death or remarriage of the surviving spouse, the benefit shall be continued to minor children, as defined in Section 25 of the Civil Code, or a lump sum shall be paid as provided under circumstances specified in Section 21365.5 or in Sections 21364 and 21366, as the case may be.

The allowance provided by this section shall be paid in lieu of the basic death benefit, but the surviving spouse qualifying for the allowance may elect before the first payment on account of it to receive such basic death benefit in lieu of the allowance.

If the surviving spouse, who did not elect the option settlement 2 in lieu of the special death benefit, and who is receiving an allowance which is equal to the amount that the member would have received if the member had been retired for service on the date of death, and had elected optional settlement 2, did not have the opportunity to elect the basic death benefit in lieu of the monthly allowance, he or she shall have the opportunity to elect the balance of the basic death benefit. The balance of the basic death benefit will consist of the basic death benefit that would have been payable upon the death of the member less the amount of gross monthly allowances paid to date of election. The election must be filed with the board within 60 days after the receipt of notification by the surviving spouse.

This section shall apply with respect to state members whose death occurs on and after July 1, 1976.

All references in this code to Section 21365.5 shall be deemed to include this section in the alternative.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an

election among the employees is not required, or, in the case of contracts made after January 1, 1985, by express provision in the contract making the contracting agency subject to this section.

SEC. 20. Section 22816 of the Government Code is amended to read:

22816. An employee enrolled in a health benefits plan under this part (a) who is granted a leave of absence without pay under the State Civil Service Act and the rules of the Department of Personnel Administration, or other comparable leave, or (b) who is laid off and has not yet obtained other employment, for a period of up to one year, or (c) a judge who retires under Chapter 11 (commencing with Section 75000) of Title 8 but is not yet receiving his or her pension, shall be entitled to have his or her coverage and the coverage of any family members continued for the duration of the leave of absence upon his or her application, or until he or she commences to receive his or her pension under Chapter 11 (commencing with Section 75000), but only upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment.

SEC. 21. Sections 2 through 19 and Section 22 of this act shall not become operative unless and until Senate Bill 1139 of the 1983–84 Regular Session becomes operative.

SEC. 22. There is hereby appropriated from the Public Employees' Retirement Fund to the Board of Administration of the Public Employees' Retirement System, the sum of seven hundred sixty-six thousand nine hundred dollars ($766,900), without regard to fiscal year, for expenditure by the board for the costs of implementing the Two Tier program, including the hiring of additional personnel.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the affected state agencies may have sufficient time for adequate preparation for the implementation of this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 675

An act to amend and renumber Section 3517.7 of, and to add Section 19849.13 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1984 Filed with Secretary of State August 18, 1984.]

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

SECTION 1. Section 3517.7 of the Government Code, as added by Chapter 323 of the Statutes of 1983, is amended and renumbered to read:

3517.8. The Department of Personnel Administration may adopt or amend regulations to implement employee benefits for those state officers and employees excluded from, or not otherwise subject to, collective bargaining.

These regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 2. Section 19849.13 is added to the Government Code, to read:

19849.13. Notwithstanding Sections 19839, 19858.1, 19859, and 19859.3, the Department of Personnel Administration may provide for vacation, sick leave, and bereavement leave benefits, including the lump-sum payment of any amount of accumulated leave, with respect to each state officer and employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

SEC. 3. It is the intent of the Legislature that the provisions of this act not disadvantage the benefit level of state officers and employees excluded from, or not otherwise subject to, collective bargaining under the SEERA in relationship to benefit levels of employees subject to collective bargaining under the SEERA.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable in the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 676

An act to amend Sections 19143, 19997.3, 19997.6, 20022, and 22754 of, to add Sections 19822.5, 20022.1, 22794.1, 22819, and 22825.2 to, and to repeal Section 19143.5 of, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1984. Filed with Secretary of State August 18, 1984.]

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

SECTION 1. Section 19143 of the Government Code is amended to read:

19143. Notwithstanding any other provision of the law to the contrary, an employee whose continuity of employment in the state service as either an exempt or civil service employee is broken for six months or longer by a permanent separation such as resignation, dismissal, or rejection during a probationary period, and who is subsequently reemployed after December 31, 1949, shall not be credited for service prior to such separation for purposes of sick leave, nor shall the employee be credited with any sick leave which the employee had accumulated prior to his or her separation, and he or she shall again serve the months required to qualify for vacation credit. The Department of Personnel Administration shall adopt rules governing the crediting of service before and after such a break in service for purposes of vacation as specified in Section 19858.1 and the keeping of service records related thereto.

When an employee has a break in the continuity of his or her state employment because of a temporary separation such as layoff, suspension, leave of absence, military leave, disability retirement, or medical termination, his or her prior service shall be counted upon his or her return to state service for purposes of layoff, sick leave and vacation.

If an employee had a break in the continuity of his or her state employment because of absence occasioned by his or her evacuation and relocation pursuant to orders issued by the commanding officer of the Western Defense Command in March 1942, for the evacuation of persons of Japanese descent from such area, where such employee was in state service on March 5, 1942, and returned to state service on or before December 31, 1949, the time of absence during which such orders were in effect shall be counted for purposes of layoff.

SEC. 2. Section 19143.5 of the Government Code is repealed.

SEC. 3. Section 19822.5 is added to the Government Code, to read:

19822.5. There is hereby established a Child Care Fund to which funds shall be allocated from the amount appropriated in the annual budget act for employee compensation. The Child Care Fund shall be used to fund pilot programs to identify alternatives of state financial participation in state employee nonprofit corporations formed by state employees to provide child care for dependents of state employees

The Child Care Fund shall be administered by the Department of Personnel Administration for state employee nonprofit corporations established for the sole purpose of providing child care services.

Upon the determination of the department, the funding shall

include, but not be limited to, cash grants and loans. Repayments and interest paid against the loans granted shall be redeposited in the Child Care Fund for expenditure.

The amount to be allocated and expended annually, from the funds available for compensation increases, shall be determined by the department. Notwithstanding Section 13340, the Child Care Fund shall be available for expenditure without regard to fiscal year through June 30, 1991, unless otherwise extended by statute enacted prior to that date.

SEC. 4. Section 19997.3 of the Government Code is amended to read:

19997.3. (a) Layoff shall be made in accordance with the relative seniority of the employees in the class of layoff. In determining seniority scores, one point shall be allowed for each complete month of full-time state service regardless of when such service occurred. Department rules shall establish: (1) the extent to which seniority credits may be granted for less than full-time service; (2) the seniority credit to be granted for service in a class that has been abolished, combined, divided, or otherwise altered under the authority of Section 18802; (3) the basis for determining the sequence of layoff whenever the class and subdivision of layoff includes employees whose service is less than full time; and (4) such other matters as are necessary or advisable to the operation of the provisions of this chapter.

(b) For professional, scientific, administrative, management, and executive classes, the department shall prescribe standards and methods by rule whereby employee efficiency shall be combined with seniority in determining the order of layoffs and the order of names on reemployment lists. Such standards and methods may vary for different classes, and shall take into consideration the needs of state service and practice in private industry and other public employment.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding incurs either present or future costs, or requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 5. Section 19997.6 of the Government Code is amended to read:

19997.6. A veteran, except a veteran who was reinstated from military leave, shall in the event of layoff receive seniority credit for recognized military service only as follows:

(a) The veteran must have entered the state service within one year after date of discharge or the end of the national emergency or the end of the state military emergency, whichever of these dates is the earlier, or; if more than one year has elapsed, he or she shall have

been in attendance at regular sessions at a college or vocational training school, for not more than five years, commencing within one year of his discharge.

(b) Such credit for recognized military service shall be computed as if it were service in the class to which the employee was first given permanent civil service or exempt appointment after his or her entry into the state service following recognized military service.

(c) Such seniority credit shall not exceed one years' credit if such veteran had no state service prior to entering the military service.

SEC. 6. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5; (4) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (5) any special compensation for performing normally required duties such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out of class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, split shift differential and substitute differential in Sections 45196 and 88196 of the Education Code; (6) compensation for uniforms, except as provided in Section 20022.1; (7) any other payments the board may determine to be compensation.

(b) "Compensation" shall not include: (1) the provision by an employer of any medical or hospital service or care plan or insurance plan (other than the purchase of annuity contracts referred to in this section) for its employees, any contribution by an employer to meet the premium or charge for such plan, or any payment into a private fund to provide health and welfare benefits for its employees; (2) any payment by an employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act; (3) amounts not available for payment of salaries and which are applied by an employer for the purchase of annuity contracts including those which meet the requirements of Section 403(b) of the Internal

Revenue Code of the United States; (4) the bonus sum provided for low-paid state employees in the Budget Act of 1975; (5) any benefits paid pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division; (6) employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to paragraph (3) of subdivision (a) shall not be considered to be employer's payments; (7) payments for lump-sum vacation or compensating time off upon termination of employment; (8) final settlement pay; (9) lump-sum sick leave payment; (10) payments for overtime, including pay in lieu of vacation or holiday; (11) special compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, bonuses for duties performed after regular work shift; and (12) any other payments the board may determine not to be compensation.

SEC. 7. Section 20022.1 is added to the Government Code, to read:

20022.1. For state employees in classifications designated by the Director of the Department of Personnel Administration who are also excluded from, or otherwise not subject to, collective bargaining, and for employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization, compensation for uniforms shall not constitute "compensation" for the purposes of the computation of retirement contributions by employees and the state or for the purposes of the calculation of retirement benefits.

SEC. 8. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

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

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid

outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.

(3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

(j) "Basic plan" means a board approved or contracted for health benefits plan other than a supplemental plan.

(k) "Supplemental plan" means a health benefits plan providing supplemental benefits for persons enrolled under Medicare Parts A and B.

SEC. 9. Section 22794.1 is added to the Government Code, to read:

22794.1. Prior to the approval of proposed benefits and rate readjustments authorized under Section 22794, the board shall notify the Department of Personnel Administration of the proposed changes in writing.

SEC. 10. Section 22819 is added to the Government Code, to read:

22819. Employees, annuitants, and their family members who become eligible on or after January 1, 1985, for Part A and Part B of Medicare shall not be enrolled in a basic health benefits plan. If the employee, annuitant, or their family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a supplement to Medicare plan. This section shall not apply to employees and family members which are specifically excluded from enrollment in a supplement to Medicare plan by federal law or regulation. This section does not apply to employees of the California State University.

SEC. 11. Section 22825.2 is added to the Government Code, to read:

22825.2. Notwithstanding Sections 22825 and 22825.1, state employees first hired on or after January 1, 1985, shall not be vested for the full employer contribution payable for annuitants unless those employees have 10 years of credited state service at time of service retirement. This section does not apply to employees of the California State University.

SEC. 12. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 1—California State Employees' Association, dated July 3, 1984.

(b) Unit 3—California State Employees' Association, dated July 3, 1984.

(c) Unit 4—California State Employees' Association, dated July 3, 1984.

(d) Unit 10—California State Employees' Association, dated July 3, 1984.

(e) Unit 11—California State Employees' Association, dated July 3, 1984.

(f) Unit 12—California State Employees' Association, dated July 3, 1984.

(g) Unit 14—California State Employees' Association, dated July 3, 1984.

(h) Unit 15—California State Employees' Association, dated July 3, 1984.

(i) Unit 17—California State Employees' Association, dated July 3, 1984.

(j) Unit 20—California State Employees' Association, dated July 3, 1984.

SEC. 13. The following provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the recognized employee organization for Units 1, 3, 4, 10, 11, 12, 14, 15, 17, and 20, the California State Employees' Association, dated July 3, 1984, and which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

"SECOND-TIER RETIREMENT PLAN

a. CSEA and the State agree to a second-tier retirement plan that includes, but is not limited to, the following provisions:

(1) The new second-tier retirement plan shall be signed into law by the Governor and be effective on January 1, 1985;

(2) The plan shall be open to all state miscellaneous members of the Public Employees' Retirement System (PERS); provided, however, that any miscellaneous (PERS) members who are represented employees as defined by SEERA must be covered by a negotiated MOU containing a specific clause which permits such employees to participate in the second-tier retirement plan.

(3) The second-tier plan is to be voluntary for existing and new state employees;

(4) The second-tier plan is to be non-contributory for all participating employees;

(5) An employee who elects the new second-tier retirement benefit shall be entitled to a refund of all said employee's retirement contributions made under the current miscellaneous retirement plan.

(6) The second-tier retirement plan shall have a maximum benefit for all participating employees of 1¼ of final average salary for each year of credited service at age 65, with ten year vesting and a 3% COLA."

SEC. 14. It is the intent of the Legislature that a second-tier retirement plan be implemented in subsequent legislation.

SEC. 15. The provisions of this act shall not become operative unless and until Assembly Bill 529 of the 1983–84 Regular Session becomes operative.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable in the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 677

An act to amend Section 11356 of the Government Code, to amend Sections 18914, 18925, 18926, and 18935 of, and to amend the heading of Article 2 (commencing with Section 18925) of Chapter 2 of Part 2.5 of Division 13 of, the Health and Safety Code, relating to the State Building Standards Commission.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 11356 of the Government Code is amended to read:

11356. (a) The provisions of Article 6 (commencing with Section 11349) shall not be applicable to any building standards subject to the approval of the State Building Standards Commission.

(b) The provisions of Article 5 (commencing with Section 11346) shall be applicable to those building standards, except that the office shall not refuse to publish any notice of proposed building standards which has been approved by, and submitted to, the office by the State Building Standards Commission pursuant to Section 18935 of the Health and Safety Code.

SEC. 2. Section 18914 of the Health and Safety Code is amended to read:

18914. "Executive director" means the Executive Director of the State Building Standards Commission.

SEC. 3. The heading of Article 2 (commencing with Section 18925) of Chapter 2 of Part 2.5 of Division 13 of the Health and Safety Code is amended to read:

Article 2. The Executive Director of the State Building Standards Commission

SEC. 4. Section 18925 of the Health and Safety Code is amended to read:

18925. The commission shall appoint an Executive Director of the State Building Standards Commission who shall hold office at the pleasure of the commission. The executive director shall make public the processes of the commission. The executive director shall appoint, in accordance with civil service and other provisions of law, such officers and employees as may be necessary to carry out the

intent and purposes of this part.

SEC. 5. Section 18926 of the Health and Safety Code is amended to read:

18926. (a) There is, in the office of the executive director, a coordinating council. The membership of such council shall consist of the executive director who shall serve as chairperson, and representatives appointed by the State Director of Health Services, the Director of the Office of Statewide Health Planning and Development, the Director of Housing and Community Development, the Director of Industrial Relations, the State Fire Marshal, the Executive Director of the State Energy Resources Conservation and Development Commission, and the Director of General Services.

(b) Subject to the pleasure of the commission:

(1) The council or any member of the council shall, when called and directed in writing by the executive director, work with and assist an adopting agency in the development of proposals for building standards.

(2) When an adopting agency contemplates the adoption of any building standard, it shall, prior to commencing any action to prepare a draft of the proposal, advise the executive director, in writing, of such intent and request the executive director to call the council, or any member of the council, as appropriate, for assistance.

(3) Whenever the commission returns for amendment, or rejects any proposed building standard, and one of the reasons for that action is that approval of the proposal would create a conflict with existing building standards of other adopting agencies, the executive director shall call the council or any member of the council, as appropriate, to assist in the elimination of the conflict.

(4) The council shall draft proposed building standards which the commission is authorized to adopt pursuant to Section 18933 for the consideration of the commission and approval, utilizing the criteria of Section 18930.

SEC. 6. Section 18935 of the Health and Safety Code is amended to read:

18935. (a) Notice of proposed building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of the building standards and submission to the commission for approval. The notice of proposed building standards and the initial statement of reasons for the proposed building standards shall comply with the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The adopting agency shall submit the notice and initial statement of reasons for proposed building standards to the Building Standards Commission, which shall review them for compliance with the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. If the commission determines that the adopting agency has complied with

the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the commission shall approve the notice and initial statement of reasons for proposed building standards, and submit them to the Office of Administrative Law for the sole purpose of inclusion in the California Administrative Notice Register. The Office of Administrative Law shall publish only those notices of proposed building standards which have been approved by, and submitted to, the office by the State Building Standards Commission.

(b) In order to assure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the commission prior to public notices of the hearing being given by the adopting agencies.

(c) If, after standards are submitted to the commission for approval, the commission requires changes therein as a condition for approval, and the changes are made, no additional hearing by the affected state agency shall be required in connection with making the changes when the commission determines the changes are nonsubstantial, solely grammatical in nature, or are sufficiently related to the text submitted to the commission for approval that the public was adequately placed on notice that the change could result from the originally proposed standards.

CHAPTER 678

An act to amend Sections 11126, 15606, 51111, and 51112 of the Government Code, and to amend Sections 64, 261, 408, 408.2, 409, 423, 423.5, 426, 437, 439.2, 439.3, 469, 480.1, 480.2, 482, 670, 1638, 1640.1, 2132, 2256.2, 5832, 38204, and 38905.1 of, to add Section 11342 to, and to repeal Sections 155.2, 155.3, 155.21, 225, 225.2, 225.3, 226, 233, 253.10, 619.1, 981, 992, 993, 2054, 38902, and 38903.1 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing contained in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a

closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any such public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provision of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other

disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent the Trustees of the California State University from holding closed sessions dealing with site selection for the state university.

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in

the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body from holding a closed session to confer with legal counsel regarding pending litigation when discussion in open session concerning those matters would adversely affect or be detrimental to the public interest.

(r) Nothing in this article shall be construed to prevent a state body which invests in retirement, pension, or endowment funds from holding closed sessions to confer with legal counsel regarding pending litigation, when discussion in open session concerning these matters would adversely affect, or be detrimental to, those funds. For purposes of subdivision (q) and this subdivision, litigation shall be considered pending when a complaint, claim or petition for writ of mandate has been filed, or the threat of litigation is imminent in the sound opinion of the state body.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state

body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions when considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization, or for the purpose of hearing confidential taxpayer appeals or data the public disclosure of which is prohibited by law.

SEC. 1.5. Section 15606 of the Government Code is amended to read:

15606. The State Board of Equalization shall:

(a) Prescribe rules for its own government and for the transaction of its business.

(b) Keep a record of all its proceedings.

(c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by Section 1611.5 of the Revenue and Taxation Code.

(d) Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.

(e) Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt such instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain such uniformity.

(f) Subdivisions (c), (d) and (e) in this section shall include, but are not limited to, rules, regulations, instructions and forms relating to classifications of kinds of property and evaluation procedures.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c) of this section, governing the assessment or taxation of property. The Attorney General shall represent the board in such action.

The provisions of this section are mandatory.

SEC. 2. Section 51111 of the Government Code is amended to read:

51111. On or before October 1, 1976, the board or council shall adopt a list and a detailed description of additional compatible uses for parcels zoned as timberland production.

SEC. 3. Section 51112 of the Government Code is amended to

read:

51112. (a) On or before March 1, 1977, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list A submitted by the assessor pursuant to subdivision (d) of Section 51110 which are not designated as "contest," unless it finds by a majority vote of the full body that a parcel or parcels are not devoted to and used for growing and harvesting timber or for growing and harvesting timber and compatible uses.

The basis for such a finding is limited to either of the following:

(1) The parcel is not in fact capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre;

(2) The use of the parcel has changed subsequent to the lien date in 1976, and that such use no longer meets the definition of timberland, or of compatible uses as defined and as adopted by the board or council pursuant to Section 51111.

(b) On or before March 1, 1977, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list A which are designated as "contested" pursuant to subdivision (c) of Section 51110, except those parcels which it finds by a majority vote of the full body to be in the public interest to exclude from such a zone.

(c) On or before March 1, 1978, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list B submitted by the assessor pursuant to subdivision (c) of Section 51110.1, except those parcels which it finds by a majority vote of the full body to be in the public interest to exclude from such a zone.

(d) On parcels excluded from the timberland production zone under this section, the board or council shall apply an alternate zone which is in conformance with the county general plan and whose primary use is other than timberland, if no such appropriate zone currently applies to such parcels.

(e) The owner of the land shall be given written notice at least 20 days prior to the hearing of the board or council, and notice of hearing shall be published pursuant to Section 6061 of this code, and shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the timberland production zone.

SEC. 6. Section 64 of the Revenue and Taxation Code is amended to read:

64. (a) Except as provided in subdivision (h) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and which is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation, or obtains a majority ownership interest in any partnership or other legal entity through the purchase or transfer of corporate stock, partnership interest, or ownership interests in other legal entities, such purchase or transfer of such stock or other interest shall be a change of ownership of property owned by the corporation, partnership, or other legal entity in which the controlling interest is obtained.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in such legal entity immediately after the transfer shall be considered the "original coowners." Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property which was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests which results in a change in control of a corporation, partnership, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) In order to assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the

following form on returns for partnerships, banks and corporations (except tax-exempt organizations):

If the corporation (or partnership) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership capital and partnership profits) (1) been transferred by the corporation (or partnership) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers "yes" to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership ownership interest transferees to the State Board of Equalization.

SEC. 7. Section 155.2 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 155.3 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 155.21 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 225 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 225.2 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 225.3 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 226 of the Revenue and Taxation Code is repealed.

SEC. 14. Section 233 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 253.10 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 261 of the Revenue and Taxation Code is amended to read:

261. (a) Except as otherwise provided in subdivisions (b) and (c), as a prerequisite to the allowance of either the veterans' or welfare exemption with respect to taxes on real property, the interest of the claimant in the property must be of record on the lien date in the office of the recorder of the county in which the property is located. Failure of the claimant to establish the fact of such recordation to the assessor constitutes a waiver of the exemption.

(b) A claimant for the veterans' exemption who on the lien date has an interest in real property consisting of an unrecorded contract of sale may in lieu of the recordation pursuant to subdivision (a) furnish or show the contract to the assessor and file an affidavit with the assessor stating all of the following:

(1) That he purchased the real property pursuant to such unrecorded contract of sale.

(2) That under such unrecorded contract of sale he is obligated and responsible for the payment of the taxes.

(c) A claimant for the welfare exemption which on the lien date

has a possessory interest in publicly owned land, owns water rights, or owns improvements on land owned by another may in lieu of the recordation pursuant to subdivision (a) file a copy of the document giving rise to that possessory interest or water rights or file a written statement attesting to the separate ownership of those improvements with the assessor. That document copy or written statement shall not be required annually following the year in which it has been filed but shall remain in effect until such time as that possessory interest terminates or ownership of the water rights or improvements transfers.

SEC. 17. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b) and (c) any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his possession to the assessor of any county and shall provide any market data in his possession to an assessee of property or his designated representative upon request. The assessor shall permit an assessee of property or his designated representative to inspect at the asessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his property. Except as provided in Section 408.1, an assessee or his designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless such disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his assessment.

(c) The assessor shall disclose information, furnish abstracts or permit access to all records in his office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, probate referees, the State Board of Equalization and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine such records.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his assessment of the assessee's property, in whole or in part, on such

comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of such property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing such market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 18. Section 408.2 of the Revenue and Taxation Code is amended to read:

408.2. (a) Except as otherwise provided in Sections 451 and 481 of this code and in Section 6254 of the Government Code, any information and records in the assessor's office which are required by law to be kept or prepared by the assessor, other than homeowners' exemption claims, are public records and shall be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his possession to the assessor of any county and shall provide any market data in his possession to an assessee of property or his designated representative upon request. The assessor shall permit an assessee of property or his designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his property. Except as provided in Section 408.1, an assessee or his designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless such disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his assessment.

(c) The assessor shall disclose information, furnish abstracts or permit access to all records in his office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, probate referees, the State Board of Equalization and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine such records

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his assessment of the assessee's property, in whole or in part, on such comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based,

the location of such property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing such market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) This section shall apply only to a county with a population which exceeds 4,000,000.

SEC. 19. Section 409 of the Revenue and Taxation Code is amended to read:

409. (a) Notwithstanding Section 6257 of the Government Code or any other statutory provision, if the assessor, pursuant to the request of any party, provides information or records that the assessor is not required by law to prepare or keep, the county may require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information.

The actual cost of providing the information is not limited to duplication or reproduction costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs.

It is the intent of this section that the county may impose this fee for information and records maintained for county use, as well as for information and records not maintained for county use.

Nothing herein shall be construed to require an assessor to provide information to any party beyond that which he or she is otherwise statutorily required to provide.

(b) For purposes of this section, "market data," as defined in Section 408.1, shall be deemed to be information the assessor is required by law to prepare or keep when requested by the assessee or a designated representative of the assessee.

(c) This section shall not apply to requests of the State Board of Equalization for information.

SEC. 20. Section 423 of the Revenue and Taxation Code is amended to read:

423. Except as provided in Section 423.7, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value such lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented,

determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing such revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly

compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest ¼ percent.

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject; and

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though such property was not subject to an enforceable restriction in the base year.

The county assessor shall notify annually the parties to an instrument which creates an enforceable restriction that unless either party expressly prohibits such a valuation, the valuation resulting from the capitalization of income method shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though such property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contract holder a fee limited to the reasonable costs of such determination not to exceed twenty dollars ($20) per parcel.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subdivision "improvements which

contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

SEC. 21. Section 423.5 of the Revenue and Taxation Code is amended to read:

423.5. When valuing open-space land which is enforceably restricted and used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall determine the value of such timberland to be the present worth of the income which the future harvest of timber crops from the land and the income from other allowed compatible uses can reasonably be expected to yield under prudent management. The value of timberland pursuant to this section shall be determined in accordance with rules and regulations issued by the board. In determining the value of timberland pursuant to this section, the board and the county assessor shall use the capitalization rate derived pursuant to subdivision (b) of Section 423. The ratio prescribed in Section 401 shall be applied to the value of the land determined in accordance with this section to obtain its assessed value.

For the purposes of this section, the income of each acre of land shall be presumed to be no less than two dollars ($2), and the present worth of this income shall not be reduced by the value of any exempt timber on the land.

There shall be a rebuttable presumption that "prudent management" does not include use of the land for recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use.

SEC. 22. Section 426 of the Revenue and Taxation Code is amended to read:

426. Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091 or 51245 of the Government Code, and the county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(a) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091 or 51245 of the Government Code, subdivision (b) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091 or 51245 of the Government Code, subdivision (b) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted.

(b) Where any of the conditions in subdivision (a) apply, the

board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1 of the Revenue and Taxation Code. If the land is not subject to Section 110.1 of the Revenue and Taxation Code when the restriction expires, the value shall be determined pursuant to Section 110 of the Revenue and Taxation Code as if it were free of contractual restriction. If the land will be subject to a use for which the Revenue and Taxation Code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (a).

(3) Subtract the value determined in paragraph 2 of subdivision (b) by capitalization of income from the full value determined in paragraph (1) of subdivision (b).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) of subdivision (b) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) of subdivision (b) and the value obtained in paragraph (4) of subdivision (b).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) of subdivision (b) to obtain its assessed value.

SEC. 23. Section 437 of the Revenue and Taxation Code is amended to read:

437. Whenever the debt limit of a taxing agency is based wholly or in part on the assessed value of the agency, there shall be added to such assessed value the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code.

The assessed valuation equivalents for revenue amounts certified pursuant to Section 27423 of the Government Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the secured tax rate for the prior year.

SEC. 24. Section 439.2 of the Revenue and Taxation Code is amended to read:

439.2. When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value such restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income

shall be the fair rent which can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument which enforceably restricts the property stipulate therein an amount which constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted.

Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing such revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board, rounded to the nearest ¼ percent.

(2) An historical property risk component of 4 percent.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the property for the

assessment year times the assessment ratio.

(4) A component for amortization of the improvements which shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board, rounded to the nearest ¼ percent.

(2) An historical property risk component of 2 percent.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements which shall be a percentage equivalent to the reciprocal of the remaining life.

(d) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(e) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

SEC. 25. Section 439.3 of the Revenue and Taxation Code is amended to read:

439.3. Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value such restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall:

(1) Determine the full cash value of the property as if it were not subject to an enforceable restriction;

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred;

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1) of this subdivision;

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) of this subdivision for the number of years remaining until the termination of the period for which the property is enforceably restricted;

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) of this subdivision and the value obtained in paragraph (4) of this subdivision; and

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) of this subdivision to obtain its assessed value.

SEC. 26. Section 469 of the Revenue and Taxation Code is amended to read:

469. In any case in which locally assessable trade fixtures and business tangible personal property owned, claimed, possessed or controlled by a taxpayer engaged in a profession, trade, or business has a full value of two hundred thousand dollars ($200,000) or more, the assessor shall audit the books and records of such profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Section 15640 of the Government Code, such determination may be deemed an audit by the assessor for purposes of this section.

Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of any such assessment which was the subject of any such equalization hearing.

If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when such property had previously been equalized for the year in question.

If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had such incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

SEC. 27. Section 480.1 of the Revenue and Taxation Code is amended to read:

480.1. (a) Whenever there is a change in control of any corporation, partnership, or other legal entity, as defined in subdivision (c) of Section 64, a signed change in ownership statement as provided for in subdivision (b), shall be filed by the person or legal entity acquiring ownership control of such corporation, partnership, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, or legal entity owns real property.

(b) The change in ownership statement as required pursuant to subdivision (a), shall be declared to be true under penalty of perjury and shall give such information relative to the ownership control acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property owned by the corporation, partnership, or other legal entity, the parties to the transaction, and the date of the ownership control acquisition. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any person or legal entity acquiring ownership control in any corporation, partnership, or other legal entity owning real property in California subject to local property taxation to complete and file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 45 days from the date of the change in control of a corporation, partnership, or other legal entity. The law further requires that a change in ownership statement be completed and filed whenever a written request is made therefor by the State Board of Equalization, regardless of whether a change in control of the legal entity has occurred. The failure to file a change in ownership statement within 45 days from the date of a written request by the State Board of Equalization results in a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control of the real property owned by the corporation, partnership, or legal entity (or 10 percent of the current year's taxes on that property if no change in control occurred). This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(c) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership or other legal entity, the

statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(e) The board or assessors may inspect any and all records and documents of a corporation, partnership or legal entity to ascertain whether a change in control as defined in subdivision (c) of Section 64 has occurred. The corporation, partnership, or legal entity shall upon request, make such documents available to the board during normal business hours.

SEC. 28. Section 480.2 of the Revenue and Taxation Code is amended to read:

480.2. (a) Whenever there is a change in ownership of any corporation, partnership, or other legal entity, as defined in subdivision (d) of Section 64, a signed change in ownership statement as provided in subdivision (b) shall be filed by such corporation, partnership, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, or legal entity owns real property.

(b) The change in ownership statement required pursuant to subdivision (a) shall be declared to be true and under penalty of perjury and shall give such information relative to the ownership interest acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property owned by the corporation, partnership, or other legal entity, the parties to the transaction, the date of the ownership interest acquisition, and a listing of the "original coowners" of the corporation, partnership, or other legal entity prior to the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any corporation, partnership, or other legal entity owning real property in California subject to local property taxation and transferring shares or other ownership interest in such legal entity which constitute a change in ownership pursuant to subdivision (d) of Section 64 of the Revenue and Taxation Code to

complete and file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 45 days from the date that shares or other ownership interests representing cumulatively more than 50 percent of the total control or ownership interests in the entity are transferred by any of the original coowners in one or more transactions. The law further requires that a change in ownership statement be completed and filed whenever a written request is made therefor by the State Board of Equalization, regardless of whether a change in ownership of the legal entity has occurred. The failure to file a change in ownership statement within 45 days from the date of a written request by the Board of Equalization results in a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property owned by the corporation, partnership, or legal entity (or 10 percent of the current year's taxes on that real property if no change in ownership occurred). This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(c) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(e) The board or assessors may inspect any and all records and documents of a corporation, partnership or legal entity to ascertain whether a change in ownership as defined in subdivision (d) of Section 64 has occurred. The corporation, partnership, or legal entity shall upon request, make such documents available to the board during normal business hours.

SEC. 28.5. Section 482 of the Revenue and Taxation Code is amended to read:

482. (a) If a person or legal entity required to file a statement described in Section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or mobilehome, whichever is greater, but not to exceed

two thousand five hundred dollars ($2,500) if the failure to file was not willful, shall, except as otherwise provided in this section, be added to the assessment made on the roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request.

(b) If a person or legal entity required to file a statement described in Section 480.1 or 480.2 fails to do so within 45 days from the date of a written request by the State Board of Equalization, a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control or change in ownership of the real property owned by the corporation, partnership, or legal entity, or 10 percent of the current year's taxes on that property if no change in control or change in ownership occurred, shall be added to the assessment made on the roll. The penalty shall apply for failure to file a complete statement notwithstanding the fact that the board determines that no change in control or change in ownership has occurred as defined in subdivision (c) or (d) of Section 64. The penalty may also be applied if after a request the person or legal entity files an incomplete statement and does not supply the missing information upon a second request. That penalty shall be in lieu of the penalty provisions of subdivision (a). However, the penalty added by this subdivision shall be automatically extinguished if the person or legal entity files a complete statement described in Section 480.1 or 480.2 no later than 60 days after the date on which the person or legal entity is notified of the penalty.

(c) The penalty for failure to file a timely statement pursuant to Sections 480, 480.1, and 480.2 for any one transfer may be imposed only one time, even though the assessor may initiate a request as often as he or she deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and treated, collected, and subject to the same penalties for the delinquency as all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which the 45-day period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of property which has transferred.

(2) Any penalty added to the roll pursuant to this section between March 1 and June 30 may be entered either on the unsecured roll or the roll being prepared. After March 1, the penalty may be added to the current roll only with the approval of the tax collector.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in

the imposition of the penalty and before the enrollment of the penalty, the penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his or her address contained in any recorded instrument or document evidencing a transfer of an interest in real property or mobilehome or at any address reasonably known to the assessor.

SEC. 29. Section 619.1 of the Revenue and Taxation Code is repealed:

SEC. 30. Section 670 of the Revenue and Taxation Code is amended to read:

670. (a) No person shall perform the duties or exercise the authority of an appraiser for property tax purposes as an employee of the state, any county or city and county, or city, either general law or chartered, unless he is the holder of a valid appraiser's or advanced appraiser's certificate issued by the State Board of Equalization.

(b) The board shall provide for the examination of applicants for such certificates and may contract with the State Personnel Board to give such examinations. Examinations shall be prepared by the board with the advice and assistance of a committee of five assessors selected by the State Association of County Assessors for this purpose. No certificate shall be issued to any person who has not attained a passing grade in such examination and demonstrated to the board that he is competent to perform the work of an appraiser as such competency is defined in regulations duly adopted by the board; provided, however, that any applicant for a certificate who is denied the same shall have a right to review of such denial in accordance with the State Administrative Procedure Act contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Passage of a civil service or merit system examination for appraiser given by the state or any county or city and county or city shall suffice to meet the requirements of this section. The scope of such examination shall be approved by the Board of Equalization.

(d) No employee of the state, any county, city and county, or city, shall perform the duties or exercise the authority of an auditor or an auditor-appraiser under Section 469 or Section 15624 of the Government Code, unless he holds a degree with a specialization in accounting from a recognized institution of higher education, or is a licensed accountant in the State of California, or has passed the state, or a county, or city and county, or city civil service or merit system examination regularly given for the position of accountant or auditor by the testing body.

(e) This section does not apply to elected officials.

(f) No charge shall be made to counties or to applicants for examinations and certifications under this section or for training conducted by the board under Section 671.

SEC. 31. Section 981 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 992 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 993 of the Revenue and Taxation Code is repealed.

SEC. 34. Section 1638 of the Revenue and Taxation Code is amended to read:

1638. The applicant may be represented in the hearing of the application and shall have the right to offer evidence. The assessor may be represented in the hearing by an attorney if the applicant is represented by an attorney and one or more members of his staff, and the assessor and members of his staff shall have the right to offer evidence. The hearing shall be conducted in accordance with Section 1609. The hearing and disposition of applications shall be conducted in an informal manner.

SEC. 35. Section 1640.1 of the Revenue and Taxation Code is amended to read:

1640.1. (a) The clerk shall transmit by mail to the protesting party and shall transmit to the county board of equalization or assessment appeals board the hearing officer's report and recommendation on the assessment protest. The protesting party shall be informed that the county board of equalization or the assessment appeals board is not bound by the recommendation of the assessment hearing officer and that he or she or the assessor is entitled to a full hearing before the county board or the assessment appeals board.

(b) The provision of this section shall supersede the provisions of Section 1640 in those counties in which the board of supervisors by resolution adopts the provisions of this section.

SEC. 36. Section 2054 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 2132 of the Revenue and Taxation Code is amended to read.

2132. (a) If a resolution has been adopted pursuant to Section 2131, the board of directors shall:

(1) Determine the total amount of revenue required by the district which will be derived from an ad valorem tax or ad valorem assessment on property on the secured roll.

(2) Divide the amount determined pursuant to paragraph (1) among the counties in which the district is situated in the proportions that the estimated full values of taxable property on the secured roll within the district in the respective counties bear to the estimated total full value of such property within the district.

(b) The estimated full value shall be determined by adding the

figures for the several counties.

SEC. 38. Section 2256.2 of the Revenue and Taxation Code is amended to read:

2256.2. Within 10 days after receipt of the first claim based upon each chaptered bill or executive order, the State Board of Control shall set a date for public hearing on such claim within a reasonable time. Such claims shall be submitted in a form prescribed by the board. After a hearing in which any state agency, the affected local agency or school district, and any other interested parties may participate, the board, if it determines a cost savings was authorized by the state, shall adopt parameters and guidelines for identifying all cost savings realized by local agencies or school districts relating to such bill or executive order. These parameters and guidelines shall provide for an offset between the cost savings authorized by the state and the reasonable costs of preparing the reports required by Section 2256.5. A local agency, school district, and the state may file a claim or request with the board to amend, modify, or supplement such parameters and guidelines. The board may, after due public notice and hearing, amend, modify, or supplement such parameters and guidelines.

SEC. 39. Section 5832 of the Revenue and Taxation Code is amended to read:

5832. Upon application, the county tax collector may issue tax clearance certificates. Such certificates shall be used to permit registration of used mobilehomes and for such other purposes as may be prescribed by the Controller. The certificates may indicate that the county tax collector finds that no local property tax is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration. The certificates shall be in such form as the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on such conditions as the Controller may prescribe.

The issuance, alteration, forgery, or use of any such certificate in a manner contrary to the requirements of the Controller constitutes a misdemeanor.

SEC. 40. Section 11342 is added to the Revenue and Taxation Code, to read:

11342. A petitioner may request the board to close to the public a portion of the hearing by filing a declaration under penalty of perjury that evidence is to be presented which relates to trade secrets, the disclosure of which will be detrimental to the business interests of the owner of the trade secrets. If the board grants the request, only evidence relating to the trade secrets may be presented during the time the hearing is closed.

SEC. 41. Section 38204 of the Revenue and Taxation Code is amended to read:

38204. (a) On or before December 31, 1976, and periodically

thereafter as determined by the board, the board after consultation with the Timber Advisory Committee and after public hearings held pursuant to the Administrative Procedure Act, shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values. The board may designate areas for timber standing on lands owned by local agencies and on timberland as defined in Section 51104 of the Government Code and designate separate areas for timber standing on national forest lands owned by the United States government. On or before March 1, 1977, for timber harvested between April 1 and December 31, 1977 and on or before December 31, 1977, and on June 30 and December 31 of each year thereafter for timber harvested during the succeeding two calendar quarters, the board, after consultation with the Timber Advisory Committee, shall estimate the immediate harvest values of each species or subclassification of timber within such areas as of the initial date of the period. Such values shall be determined under rules adopted pursuant to the Administrative Procedure Act from the best evidence available, including (1) gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, or (2) gross proceeds from sales of logs, or of finished products, adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest, or a combination of (1) and (2), and shall be determined in a manner which makes reasonable allowance for differences in age, size, quality, cost of removal, accessibility to point of conversion, market conditions and other relevant factors.

(b) The board, either on its own motion or in response to application from a timber owner, may modify the immediate harvest values to reflect material changes in timber values that result from fire, blowdown, ice storm, flood, disease, insect damage or other cause, for any area or part thereof in which damaged timber is located. The board shall specify any additional accounting or other requirements to be complied with in reporting and paying the tax on such timber.

SEC. 42. Section 38902 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 38903.1 of the Revenue and Taxation Code is repealed.

SEC. 44. Section 38905.1 of the Revenue and Taxation Code is amended to read:

38905.1. (a) Commencing with the 1983–84 fiscal year, the Controller shall, pursuant to subdivision (c) of Section 38904, on November 30 and May 31 of each fiscal year, transmit to county treasurers the balance in the Timber Tax Fund on those dates, in accordance with the following allocation schedule:

(1) For the 1983–84 fiscal year, 50 percent of the balance in Timber Tax Fund shall be transmitted to county treasurers based on the annual yield tax revenue guarantee certified for each county

pursuant to subdivision (c) or (e) of Section 27423 of the Government Code. The remaining 50 percent of the balance in the fund shall be transmitted to county treasurers in the same proportion that the balance to be transmitted was generated from each county, as certified by the State Board of Equalization.

(2) For the 1984–85 fiscal year and each fiscal year thereafter, 100 percent of the balance in the fund shall be transmitted to county treasurers in the same proportion that the balance to be transmitted was generated from each county, as certified by the State Board of Equalization.

(b) Upon receipt of funds pursuant to subdivision (a), the county auditor shall within 10 days distribute the funds among the jurisdictions (as defined in Section 95) within the county in the same proportion that each jurisdiction's minimum revenue guarantee, determined pursuant to Section 27423 of the Government Code, bears to the total of all those amounts for all jurisdictions within the county.

(c) It is the intent of the Legislature that the provisions of subdivision (a) shall provide a final and conclusive disposition of the problem of allocating yield tax revenues among counties entitled to those revenues.

CHAPTER 679

An act to amend Section 5003.05 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor August 20, 1984 Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 5003.05 of the Public Resources Code is amended to read:

5003.05. Rules and regulations adopted pursuant to Section 5003 shall also apply on any granted or ungranted tidelands or submerged lands abutting property of the department and used for recreational purposes by members of the general public in conjunction with their use of the department's property between the boundary of the lands under the jurisdiction of the department and a line running parallel to and 1,000 feet waterward of the ordinary high water mark, so long as the rule or regulation being applied is not inconsistent with any rule or regulation of any other public agency which is applicable to those tide or submerged lands.

CHAPTER 680

An act to amend Section 1720 of the Welfare and Institutions Code, relating to wards.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 1720 of the Welfare and Institutions Code is amended to read:

1720. (a) The case of each ward shall be heard by the board immediately after the case study of the ward has been completed and at such other times as is necessary to exercise the powers or duties of the board.

(b) The board shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the board considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) The ward shall be entitled to notice if his or her annual review hearing is delayed beyond one year after the previous annual review hearing. The ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

(d) Failure of the board to review the case of a ward within 15 months of a previous review shall not of itself entitle the ward to discharge from the control of the Youth Authority but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

CHAPTER 681

An act to amend Section 12721 of the Health and Safety Code, relating to fireworks.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 12721 of the Health and Safety Code is amended to read:

12721. The State Fire Marshal, his or her salaried deputies, or any chief of a fire department, or his or her authorized representatives,

any fire protection agency, or any other public agency authorized by statute to enforce the State Fire Marshal's regulations, may seize any fireworks described in this part. The State Fire Marshal, any chief of a fire department, any fire protection agency, or any other public agency authorized to enforce the State Fire Marshal's regulations may charge any person, firm, or corporation, whose fireworks are seized pursuant to this section, an amount which is sufficient to cover the cost of transporting, storing, and handling the seized fireworks. When the State Fire Marshal, other enforcing officer or agency described in this section, or a court determines that a person's, firm's, or corporation's fireworks are illegally or erroneously seized, or if legal proceedings do not result in a conviction for violation of any provision of this part, any funds collected pursuant to this section shall be refunded, or if charged but unpaid, canceled.

CHAPTER 682

An act to amend Sections 3008 and 3234 of the Public Resources Code, relating to oil and gas.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 3008 of the Public Resources Code is amended to read:

3008. (a) "Well" means any oil or gas well or well for the discovery of oil or gas; any well on lands producing or reasonably presumed to contain oil or gas; any well drilled for the purpose of injecting fluids or gas for stimulating oil or gas recovery, repressuring or pressure maintenance of oil or gas reservoirs, or disposing of waste fluids from an oil or gas field; any well used to inject or withdraw gas from an underground storage facility; or any well drilled within or adjacent to an oil or gas pool for the purpose of obtaining water to be used in production stimulation or repressuring operations.

(b) "Prospect well" or "exploratory well" means any well drilled to extend a field or explore a new, potentially productive reservoir.

SEC. 2. Section 3234 of the Public Resources Code is amended to read:

3234. (a) Except as otherwise provided in this section, all the well records, including production reports, of any owner or operator which are filed pursuant to this chapter shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

Those records shall be public records when filed with the division unless the owner or operator requests, in writing, the division to

maintain the well records of onshore exploratory wells or offshore exploratory wells confidential. The records of other wells may be maintained confidential if, based upon information in a written request of the owner or operator, the supervisor determines there are extenuating circumstances. For onshore wells, the confidential period shall not exceed two years from the cessation of drilling operations as defined in subdivision (e). For offshore wells, the confidential period shall not exceed five years from the cessation of drilling operations as defined in subdivision (e).

Well records maintained confidential by the division shall be open to inspection to those persons authorized in writing by the owner or operator. Confidential status shall not apply to state officers charged with regulating well operations, the director, or as provided in subdivision (c).

Upon receipt by the supervisor of a written request documenting extenuating circumstances pertaining to a particular well, including a well on an expired or terminated lease, the supervisor may extend for six months the period of confidentiality. For onshore wells, the total period of confidentiality, including all extensions, shall not exceed four years from the cessation of drilling operations as defined in subdivision (e), and for offshore wells the total period of confidentiality, including all extensions, shall not exceed seven years from the cessation of drilling operations as defined in subdivision (e), unless a longer period of time is approved by the director after a public hearing.

(b) Notwithstanding the provisions of subdivision (a) with respect to the period of confidentiality, the well records for onshore and offshore wells shall become public records upon a demonstration to the supervisor that the lease has expired or terminated.

(c) Production reports filed pursuant to Section 3227 shall be open to inspection to the State Board of Equalization or its duly appointed representatives when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed property pursuant to Section 751 of the Revenue and Taxation Code, and to the assessor of the county in which a well referred to in Section 3227 is located.

(d) For the purposes of this section, "well records" shall not include either experimental logs and tests or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

(e) Cessation of drilling operations occurs on the date of removal of drilling machinery from the well site.

CHAPTER 683

An act to add Sections 22004.1 and 22235 to the Education Code, relating to public employee retirement, and making an appropriation therefor.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 22004.1 is added to the Education Code, to read:

22004.1. The system shall inform a member, upon retirement, that future tax liabilities may occur as the result of the pending retirement allowance. The system shall also, at the beginning of the third year of retirement, inform the retirant of a possible tax liability.

SEC. 2. Section 22235 is added to the Education Code, to read:

22235. In order to provide equitable telephone assistance to all members, beneficiaries, and retirants, regardless of their location in California, the system shall install a toll-free (800 prefix) line.

SEC. 3. There is hereby appropriated from the Teachers' Retirement Fund the sum of eighty-five thousand five hundred dollars ($85,500) to the State Teachers' Retirement System for expenditure pursuant to the following schedule:

(a) For the purposes of Section 22004.1 of the Education Code, the sum of three thousand dollars ($3,000).

(b) For the purposes of Section 22235 of the Education Code, the sum of eighty-two thousand five hundred dollars ($82,500).

CHAPTER 684

An act to amend Sections 45319 and 88138 of the Education Code, relating to education.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 45319 of the Education Code is amended to read:

45319. A merit (civil service) system within a school district may be terminated by one of the following methods:

(a) If the governing board of a school district, or a county board of education, receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the board calling for the termination of the merit

(civil service) system and the system has been in operation for not less than five years or has been imposed pursuant to the terms of Section 45119 or 45120, the board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or county board of education member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

"Shall the merit (civil service) system for school employees not requiring certification qualifications, as provided for in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2 of the Education Code of the State of California, and which has been in operation for at least five years, be terminated by the _____ School District of _____ County (or counties, where appropriate), or by the County Office of Education of _____ County on _____ (date to be specified by board)?"

The petition calling for the election, to be valid, shall contain the statement of purpose for the election as contained in this section.

(b) If the governing board of a school district, or the county board of education, receives a written petition from 40 percent of the classified employees entitled to vote calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years or has been imposed pursuant to the terms of Section 45119 or 45120, the governing board shall conduct an election by secret ballot of its classified personnel to determine whether or not they desire to have the merit system terminated within the district. The ballot shall read: "Shall the merit (civil service) system for classified employees be terminated in the _____ (name of school district, or county office of education) as of _____ (termination date)?"

As used in this subdivision, "classified employees" means all personnel who are a part of the classified service who are appointed in accordance with Section 45272.

In order to be valid, the petition calling for the termination of the merit (civil service) system shall be submitted to the governing board within 90 days after the date that the notice for the circulation of the petition was filed with the governing board. The election shall be held during the regular school year and shall be held no earlier than 45 days and no later than 180 days after the date that the petition was submitted to the governing board.

If the merit system was adopted pursuant to Section 45224.5, classified employees entitled to vote in an election pursuant to this subdivision shall be limited to those classified employees who reside in the district.

(c) The governing board shall devise an identification system designed to protect against fraud in the balloting process. In addition, the governing board shall appoint a three-member tabulation committee consisting of one member of the governing board, one

member of the personnel commission of the district, and one member who shall be a classified employee of the district. It shall be the responsibility of the tabulation committee to canvass the election ballots and to certify the results of the election to the governing board at the next regular meeting of the governing board following the completion of the tabulation of the election ballots by the committee.

(d) Notwithstanding any other provision of law, the governing board shall not be required to provide release time for classified personnel to vote in an election conducted pursuant to subdivision (b). The governing board shall not conduct an election under subdivision (b) more than once in any two-year period.

(e) It shall be unlawful for a public school employer and the exclusive representative of the classified employees of a school district to include the subject of the termination of the merit (classified service) system within the scope of representation.

(f) It is the intent of the Legislature that members of the classified service shall be provided an adequate and ample opportunity to be informed of the arguments in favor of and in opposition to the termination of the merit (civil service) system prior to the conducting of an election called pursuant to subdivision (b).

SEC. 2. Section 88138 of the Education Code is amended to read:

88138. A merit (civil service) system within a community college district may be terminated by one of the following methods:

(a) If the governing board of a community college district, receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the board calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years, the board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

"Shall the merit (civil service) system for school employees not requiring certification qualifications, as provided for in Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3 of the Education Code of the State of California, and which has been in operation for at least five years, be terminated by the _____ Community College District of _____ County (or counties, where appropriate) on _____ (date to be specified by board)?"

The petition calling for the election, to be valid, shall contain the statement of purpose for the election as contained in this section.

(b) If the governing board of a community college district receives a written petition from 40 percent of the classified employees entitled to vote calling for the termination of the merit

(civil service) system and the system has been in operation for not less than five years or has been imposed pursuant to the terms of Section 45119 or 45120, the governing board shall conduct an election by secret ballot of its classified personnel to determine whether or not they desire to have the merit system terminated within the district. The ballot shall read: "Shall the merit (civil service) system for classified employees be terminated in the _____ (name of community college district) as of _____ (termination date)?"

As used in this subdivision, "classified employees" means all personnel who are a part of the classified service who are appointed in accordance with Section 88091.

In order to be valid, the petition calling for the termination of the merit (civil service) system must be submitted to the governing board of a community college district within 90 days after the date that the notice for the circulation of the petition was filed with the governing board of the community college district. The election shall be held during the regular academic year and shall be held no earlier than 45 days and no later than 180 days after the date that the petition was submitted to the governing board.

If the merit system was adopted pursuant to Section 88057, classified employees entitled to vote in an election pursuant to this subdivision shall be limited to those classified employees who reside in the district.

(c) The governing board of a community college district shall devise an identification system designed to protect against fraud in the balloting process. In addition, the governing board shall appoint a three-member tabulation committee consisting of one member of the governing board, one member of the personnel commission of the community college district, and one member who shall be a classified employee of the community college district. It shall be the responsibility of the tabulation committee to canvass the election ballots and to certify the results of the election to the governing board at the next regular meeting of the governing board following the completion of the tabulation of the election results by the committee.

(d) Notwithstanding any other provision of law, the governing board of a community college district shall not be required to provide release time for classified personnel to vote in an election conducted pursuant to subdivision (b). The governing board shall not conduct an election under subdivision (b) more than once in any two-year period.

(e) It shall be unlawful for a public school employer and the exclusive representative of the classified employees of a community college district to include the subject of the termination of the merit (classified service) system within the scope of representation.

(f) It is the intent of the Legislature that members of the classified service shall be provided an adequate and ample opportunity to be informed of the arguments in favor of and in opposition to the termination of the merit (classified service) system prior to the

conducting of an election called pursuant to subdivision (b).

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 685

An act to amend Section 1215.13 of the Insurance Code, relating to insurance.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 1215.13 of the Insurance Code is amended to read:

1215.13. (a) For the purposes of this article only, every foreign insurer, except an insurer described in Article 2 (commencing with Section 12350) of Chapter 1 of Part 6 of Division 2, which is authorized to do business in this state and which, during its three preceding fiscal years taken together, or during any lesser period of time if it has been licensed to transact its business in California only for such lesser period of time, has written an average of more gross premiums in the State of California than it has written in its state of domicile during the same period, and such gross premiums written constitute 20 percent or more of its total gross premiums written everywhere in the United States for such three-year or lesser period, as reported in its three most recent annual statements, shall be deemed a "commercially domiciled insurer" within the State of California.

(b) The commissioner may exempt from the provisions of this article any commercially domiciled insurer made subject to this article by subdivision (a) if he or she shall determine that it has a sufficiently large amount of assets and the evidences of title thereto physically located in California, or that the ratio of such assets to its California policyholder liability is sufficiently large, as to justify the conclusion that there is no reasonable danger that the operations or conduct of the business of such insurer could present a danger of loss

to California policyholders. The commissioner may also exempt from the provisions of this article any commercially domiciled insurer made subject to this article by subdivision (a) under such circumstances as he or she deems appropriate.

(c) This section shall not, however, be construed to exempt any foreign insurer which is authorized to do business in this state, including a commercially domiciled insurer, from the provisions of any other sections of this article which may be applicable to such insurer.

CHAPTER 686

An act to amend Section 56401 of the Government Code, relating to local agencies.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 56401 of the Government Code is amended to read:

56401. A district of limited powers may be either merged with or established as a subsidiary district of a city in the manner provided in this chapter.

A mutual service agreement between a city and a district of limited powers may provide that the city shall not, while such agreement is in effect, or during any portion of the agreement's effective duration as the city and the district may stipulate in the agreement, initiate a proposal to establish the district as a subsidiary district of the city.

CHAPTER 687

An act to amend Section 35012 of the Government Code, relating to municipal annexation.

[Approved by Governor August 20, 1984. Filed with Secretary of State August 22, 1984.]

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

SECTION 1. Section 35012 of the Government Code is amended to read:

35012. Notwithstanding the provisions of Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county

as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part. If, after the completion of the annexation, the city sells such territory or any part thereof, all such territory which is no longer owned by the city shall cease to be a part of the city. Territory which is used by a city for reclamation, disposal, and storage of treated waste water may be annexed to the city pursuant to this section without limitation as to the size of the area encompassed within the territory so annexed.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it, although such territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section to the contrary, a city which annexes territory pursuant to this section may annex additional territory which is owned by the United States government or the State of California and which is contiguous to such first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of such subsequent annexation, the city sells all or any part of such first annexed territory, the subsequently annexed territory shall cease to be part of the city if it is no longer contiguous to territory owned by the city.

When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming such detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make such filing as is provided for by Chapter 4 (commencing with Section 35350).

If territory annexed to a city pursuant to this section becomes contiguous to such city, the limitations imposed by this section shall cease to apply.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 688

An act relating to water districts and, in this connection, to create the Sutter County Flood Control and Water Conservation District to provide for water conservation, development of water resources, and control of drainage, storm, flood, and other waters, and prescribing

its organization, powers, and duties.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

SECTION 1. This act shall be known and may be cited as the Sutter County Flood Control and Water Conservation District Act.

CHAPTER 2. LEGISLATIVE INTENT

SEC. 20. The Legislature hereby finds that the water and drainage problems in Sutter County require countywide water conservation, development of water resources, and control of drainage, storm, flood, and other waters. The Legislature finds that these problems are not general or statewide. The Legislature further finds that agricultural and residential development over widespread portions of the county have created drainage problems which cannot be economically resolved through existing public entities within the county, that to adequately and feasibly conserve the water supply and control the drainage, storm, flood, and other waters of the county, it is necessary to have a political entity coextensive with the geographical limits of the entire county, and that the geography of the county is such that there are numerous drainage areas and noncontiguous watersheds therein. Investigation having shown conditions in the county to be peculiar to it, it is hereby declared that a general law cannot be made applicable to the county and that the enactment of this special law is necessary for the conservation, development, control, and use of water for the public good and for the protection of life and property within the county.

CHAPTER 3. CREATION AND TERRITORY

SEC. 40. A flood control and water conservation district is hereby created to be called the Sutter County Flood Control and Water Conservation District. The district shall consist of all of the territory of the County of Sutter lying within the exterior boundaries of the county.

CHAPTER 4. DEFINITIONS

SEC. 60. "Board of directors" means the board of directors of the district.

SEC. 61. "Board of supervisors" means the board of supervisors of the county.

SEC. 62. "County" means the County of Sutter of the State of California.

SEC. 63. "Eligible voter" means a registered voter of the area to be affected, if 1,000 or more registered voters reside within the area at the time the determination to hold an election is made. Each such registered voter shall have one vote. If fewer than 1,000 registered voters reside within the area affected at the time the determination to hold an election is made, "eligible voter" shall mean a landowner of the proposed area to be affected, each landowner having one vote for each one thousand dollars ($1,000) of assessed valuation or fraction thereof of land owned by him or her within the area to be affected.

SEC. 64. "Evidence of indebtedness" means any warrant, note, or other evidence of indebtedness of the district or any zone.

SEC. 65. "General district election" means the district election required to be held in each odd-numbered year to choose a successor for each elective officer, the term of whose office will expire at noon on the last Friday in November following the general district election.

SEC. 66. "Landowner" or "owner of land" means any of the following:

(a) Any person shown as the owner of land on the last county equalized assessment roll.

(b) If that person is no longer the owner, then any person entitled to be shown as the owner of land on the next county assessment roll.

(c) If land is subject to a recorded written agreement of sale, any person shown therein as purchaser.

(d) Any public agency owning land.

SEC. 67. "Legal representative" means an official of a corporation, partnership, or any other nonpublic entity or association which owns land within the district, and means a guardian, executor, or administrator of the estate of the owner of land within the district who is appointed under the laws of this state, is entitled to possession of the estate's land, or is authorized by the appointing court to exercise the particular right, privilege, or immunity which he or she seeks to exercise.

SEC. 68. "Special election" means an election held within the district, other than the general district election, called to fill a vacancy on the board of directors or to vote on a ballot question.

SEC. 69. "Participating zone" means one of two or more zones benefiting from the same project or projects.

SEC. 70. "Project" means a work and all of the activities related to or necessary for acquisition, construction, operation, and maintenance of a work, including, but not limited to, planning, design, financing, and administration.

SEC. 71. "Work" or "works" shall include, but shall not be limited to, any of the following: reservoirs, dams, and all conduits and

facilities for the control, conservation, diversion, and transmission of water for beneficial uses; drains, levees, and all ditches and facilities for the control and disposal of drainage, storm, and flood waters within the district; power plants, transmission lines, and all facilities for the generation and distribution of hydroelectric power; and all necessary property interests and rights-of-way.

SEC. 72. "Zone" means an improvement district, assessment district, or zone of benefit of the district.

SEC. 73. "Zone election" means an election held entirely within a zone or participating zone, conducted in the manner prescribed by the board of directors.

SEC. 74. "Zone of benefit" means a zone of benefit formed under the provisions of Part 6 (commencing with Section 600).

CHAPTER 5. GENERAL PROVISIONS

SEC. 80. The Knox-Nisbet Act (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code) and the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6 of the Government Code) shall not apply to the formation of the district or the formation or changes in the boundaries of any zone. For all other purposes, the district shall be a "district" as that term is defined in the District Reorganization Act of 1965.

SEC. 81. Noncontiguous territory, either within or beyond the boundaries of the county, may be annexed to or detached from the district.

SEC. 82. The boundaries of the district shall be automatically changed in the event of a change in the boundaries of the county.

SEC. 83. Any judicial action or proceeding to attack, review, set aside, void, annul, or challenge the validity or legality of the formation of a zone, any contract entered into by the district or a zone, any bond or evidence of indebtedness of the district or a zone, or any assessment, rate, or charge of the district or a zone shall be commenced within 60 days of the effective date thereof. Any such action or proceeding shall be brought pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. The district may bring an action pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any of the matters referred to in this section.

PART 2. INTERNAL ORGANIZATION

CHAPTER 1. THE BOARD OF DIRECTORS

SEC. 200. Upon the formation of the district, the board of supervisors shall be ex officio the board of directors. Each member of the board of supervisors shall serve as a member of the board of

directors without additional compensation, except for actual, necessary, and reasonable expenses.

SEC. 201. The board of supervisors acting ex officio as the board of directors may, upon the vote of at least four of its members, adopt a resolution either: (1) appointing a board of directors composed of one director for each supervisorial district in the county, each of whom shall be a registered voter within the supervisorial district he or she is appointed to represent, and fixing a time and date on which the newly appointed directors shall take office, at which time the board of supervisors shall cease to be the ex officio board of directors; or (2) call a general district election or special election to fill the seats on the board of directors by election, in which event the board of supervisors shall cease to be the ex officio board of directors at the time the elected board of directors takes office.

SEC. 202. In the event that directors are appointed by the board of supervisors acting ex officio as the board of directors, they shall hold office until their successors take office following their election at the first general district election held after the appointment. At the first general district election of members of the board of directors, the directors elected from supervisorial districts 1, 3, and 5 shall be elected for a term of four years, and the directors elected from supervisorial districts 2 and 4 shall be elected for a term of two years.

SEC. 203. Except as otherwise provided for in this chapter, one director shall be elected from and by the registered voters of each supervisorial district of the county for a four-year term. Directors shall not be elected on an at-large basis. Any change in the boundaries of supervisorial districts shall not take effect for purposes of the election of directors until the next general district election or special election following the change. Each director, other than the board of supervisors acting ex officio as the board of directors, shall be an eligible voter of the supervisorial district which he or she represents at the time of appointment or nomination and during his or her entire term of office.

SEC. 204. Prior to taking office, each director shall take the official oath and execute such bond as may be set by the board of directors.

SEC. 205. All vacancies occurring in the office of director shall be filled pursuant to Section 1780 of the Government Code.

SEC. 206. Each director, other than the board of supervisors acting ex officio as the board of directors, shall be entitled to receive compensation in an amount set by the board of directors and recorded in its official minutes, not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board of directors or for each day's service rendered as a director by request of the board of directors, not exceeding a total of six days in any calendar month, together with actual, necessary, and reasonable expenses incurred in the performance of duties required or authorized by the board of directors.

SEC. 207. At its first meeting and at its regular meeting in January and each year thereafter, the board of directors shall elect a chairman and vice chairman from its members.

SEC. 208. The board of directors shall hold one or more regular meetings each month at such time and place as it may set by resolution. No change in the date of the regular meeting shall be effective until notice thereof has been published in a newspaper of general circulation within the county at least seven days prior to the effective date of the change. Special meetings of the board of directors may be called and conducted in the manner provided for in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 209. A majority of the board of directors shall constitute a quorum for the transaction of business.

SEC. 210. The vote of a majority of the directors present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act or by law.

CHAPTER 2. OTHER OFFICERS AND EMPLOYEES

SEC. 220. Any county employee designated by the board of supervisors shall be an ex officio employee of the district, and shall perform without additional compensation the same duties for the district as for the county in order to carry out the provisions of this act, during the time the board of supervisors serves ex officio as the board of directors. Thereafter, a county employee may serve as an ex officio employee of the district with the consent of the board of supervisors and the board of directors.

SEC. 221. The board of directors may employ and appoint any agents, officers, employees, and consultants as may be required, prescribe their duties, fix their salaries, and prescribe the terms and conditions of their employment.

PART 3. ELECTIONS

CHAPTER 1. GENERAL PROVISIONS

SEC. 300. All district elections shall be conducted in conformance with the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), to the extent applicable, unless otherwise provided herein.

SEC. 301. Only eligible voters shall vote at district elections. Assessed valuation shall be determined from the county's last equalized assessment roll. For land in multiple ownership, the owner shall designate in writing to the district, prior to the deadline set by the district, one owner of the land for voting purposes. Where applicable, the owner shall designate in writing, prior to the deadline set by the district, the legal representative who shall be entitled to vote on behalf of the owner.

SEC. 302. Except as otherwise provided in this act, the county clerk shall conduct all elections within the district. The board of directors may, by resolution, determine that the district shall conduct an election and an officer designated by the district shall perform the duties of the county clerk in conducting the election.

SEC. 303. The board of directors may, by resolution, direct that any district election be conducted by all-mailed ballot under the procedure for mailed ballot elections set forth in the Elections Code. If the general district election is to be conducted by all-mailed ballot, it shall be conducted in accordance with Section 23509.5 of the Elections Code. If a special election is to be conducted by all-mailed ballot, other than a special election consolidated with the general district election which is also to be conducted by all-mailed ballot, it may be conducted on any Tuesday, unless it is the day before or the day after a state holiday or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A special election to be conducted by all-mailed ballot may be consolidated with the general district election if it is also to be conducted by all-mailed ballot, and may be held on the date set forth in Section 23509.5 of the Elections Code.

CHAPTER 2. GENERAL DISTRICT ELECTIONS

SEC. 320. The general district election shall be held on the date provided for in the Uniform District Election Law for general district elections. The first general district election shall be held after the board of supervisors, acting ex officio as the board of directors, either appoints a board of directors or adopts a resolution calling the election as provided in Section 201.

CHAPTER 3. SPECIAL ELECTIONS

SEC. 340. Special elections may be called and conducted in the same manner as the general district election within the entire district or an affected supervisorial district or zone. The special election shall be held on one of the established election dates set forth in Section 2500 of the Elections Code or, if conducted by all-mailed ballot, in the manner provided for in this act.

SEC. 341. In the alternative to calling a special election within a zone under the provisions of the Uniform District Elections Law, the board of directors may call a zone election for any of the following purposes: to elect a zone council or to vote on proposals for the issuance of bonds, the approval of projects, or the levy of benefit assessments affecting the zone. A zone election may be held on any Tuesday, unless it is the day before or the day after a state holiday or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A zone election shall be conducted in the manner prescribed by the board of directors in its resolution calling the zone election. The resolution shall, among other things, set forth

the term of office for zone council members to be elected, the notice requirements for the election, the period during which nominations for zone council may be filed, and whether the election will be conducted by all-mailed ballot. Except to the extent provided to the contrary in the resolution, the zone election will be conducted in the same manner as special elections in the district.

PART 4. POWER AND PURPOSES

CHAPTER 1. POWERS GENERALLY

SEC. 400. The district shall have the power generally to perform all acts necessary or proper to carry out fully the provisions of this act.

SEC. 401. The district may commence and maintain any action or proceeding to carry out its purposes or protect its interests and may defend any action or proceeding brought against it.

SEC. 402. The district may execute, by its chairman and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district.

SEC. 403. The district shall have perpetual succession.

SEC. 404. The district shall have the power to adopt a seal and alter it at its pleasure.

SEC. 405. The powers of the district shall, except as otherwise provided, be exercised by the board of directors.

SEC. 406. As used in this section, "special district" means a city, irrigation district, water district, reclamation district, drainage district, or any other special district or mutual water company which has any of the powers enumerated in Sections 409, 410, 411, 412, 413, and 417. The district shall not exercise within the boundaries of a special district any power enumerated in Section 409, 410, 411, 412, 413, 415, or 417 which is common to the power of the special district, without the prior agreement of the governing body of the special district.

SEC. 407. The district shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, lease, with or without the privilege of purchasing, or otherwise, real and personal property of every kind, of any interest in real or personal property within or outside of the district, necessary to the full exercise of its powers, and to hold, use, enjoy, and to lease or dispose of the same subject to the limitations set forth in this act.

SEC. 408. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner as provided.

The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district, inviting sealed proposals for the construction of the work before any contract shall be made

therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The board may reject any and all bids.

If all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of ten thousand dollars ($10,000) or where the work consists of channel protection, or maintenance work, or emergency work necessary in order to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids therefor, have the work done by force account. The district may purchase in the open market, without advertising for bids thereof, materials and supplies for use in any work either under contract or by force account.

The provisions of this section have no application to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

The district shall comply with Chapter 2 (commencing with Section 21000) of Part 3 of Division 2 of the Public Contract Code, which shall control over the provisions of this act to the extent of any inconsistency.

SEC. 409. The district shall have the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the land or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses. Water which is surplus to the needs of the lands and inhabitants within the district may be made available for beneficial use outside the district.

SEC. 410. The district shall have the power to control drainage, flood, and storm water within the district and drainage, flood, and storm water of streams outside of the district which flow into the district; to conserve the water by storage and surface reservoirs, and to divert and transport the water for beneficial uses within the district; to release the water from surface reservoirs in order to replenish and augment the supply of water in natural underground reservoirs, to save or conserve in any manner all or any of the water; to reduce the waste of water; to provide subsurface drainage to alleviate conditions of high groundwater levels within the district; and to protect the watercourses, watersheds, public highways, and life and property within the district from damage from any such drainage, flood, or storm water.

SEC. 411. The district shall have the power to authorize an engineering investigation and report on any existing or potential groundwater problem. The report shall include, but not be limited

to, a description of the existing and potential future conditions of and changes in the depth, quality, yield, and operation of the groundwater basin in question. The investigation shall indicate any conditions and changes in the groundwater basin which are or will be detrimental or beneficial to overlying lands, and shall indicate the areal extent of the effects, which shall constitute the project area. The report shall offer recommendations of what actions, if any, could be initiated to improve groundwater conditions within the project area. Upon review of the report, if the board of directors determines that specific actions are necessary to improve groundwater conditions, notwithstanding the provisions of Section 642, those actions shall not be implemented unless approved by two-thirds of the votes cast in an election conducted among eligible voters within the project area. Any actions to be implemented shall give the following priority for use of groundwater:

(a) Use on overlying lands within the project area.

(b) Use on nonoverlying lands within the district.

(c) Export from the district.

SEC. 412. The district shall have the power to construct, operate, and maintain works to develop hydroelectric energy and transmission lines for the conveyance thereof. The power generated may be used by the district for its purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than a public utility or public agency.

The power to construct, operate, and maintain works to develop hydroelectric energy shall not include, and nothing in this act shall be construed to permit, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the district and the owner of that property.

SEC. 413. The district shall have the power within or outside the district to construct, purchase, lease, or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface waters and water rights, useful and necessary to make use of water for any purposes authorized by this act.

The power to purchase, lease, or acquire water rights set forth in this section may be exercised only with regard to those rights that may be offered for sale, lease, or acquisition by the person possessing them. The power to appropriate water rights set forth in this section is restricted to those rights that are not appropriated by another at the time the power is exercised.

SEC. 414. Any property or work of the district may be leased for a use or purpose which the board finds will not interfere with or be inconsistent with district uses or purposes, upon terms which appear to the board to be for the best interests of the district.

SEC. 415. The district may, within or outside the district within the state, acquire by purchase, condemnation, or other legal means all property or rights in property necessary or proper for district works and purposes of the district. Eminent domain proceedings

may be brought by the district for these purposes pursuant to the provisions of Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

SEC. 416. The district shall have the power to operate and maintain any work. This power shall include the right to repair, modify, alter, adjust, and replace any work.

SEC. 417. The district shall have the power to make surveys and investigations for works relating to control of drainage, storm, and flood water within or flowing into the district, of the water supply and resources of the district, or for hydroelectric development. The district may carry on and perform technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water, water rights, use of water both within and outside of the district, or to the control of drainage, storm, and flood water both within and which now flow into the district, or to hydroelectric development. For these purposes, the district shall have the right of access through its authorized representative to all properties within the district.

SEC. 418. The district may disseminate information to the public concerning the rights, properties, and activities of the district.

CHAPTER 2. RATES AND CHARGES

SEC. 440. The board of directors shall, by resolution following notice and public hearing, fix rates and charges for services provided by the district, reflecting the reasonable cost and value of providing the service. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the rate or charge.

SEC. 441. The district shall have authority, by resolution following notice and public hearing, to levy a standby or carrying charge, not to exceed ten dollars ($10) per acre or fraction of acre per year, against each acre of land or fraction thereof to which a service provided by the district is available, irrespective of whether the service is actually used. However, no standby or carrying charge for water service shall be applied to lands situated more than one-quarter of a mile from an available main or service connection. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the standby charge.

SEC. 442. Rates and charges, including standby charges, when due are a lien on the landowner's land to whom the service is provided or made available, in the nature of assessments, and may be collected and enforced in the manner provided in this act for the collection and enforcement of assessments.

SEC. 443. Rates and charges, including standby charges, may be made payable in advance. The district may, by resolution, provide that rates and charges which remain unpaid for a period of not less than 30 days after they have become due shall be delinquent, and a

one-time penalty not in excess of 10 percent shall be added on each charge as it becomes delinquent, and all delinquent rates and charges and penalties shall bear interest at a rate not in excess of 18 percent per year.

CHAPTER 3. CONTRACTS WITH THE UNITED STATES AND OTHER AGENCIES

SEC. 460. The district shall have the power to cooperate and contract with the United States, the State of California, or any department or agency of either, or with any other district or political subdivision of the state empowered by law to appropriate water and deliver water to users, or control drainage, storm, flood or other waters, for the purposes of acquisition, construction, purchase, extension, operation, or maintenance of works, whether for irrigation, drainage, flood control, water conservation, hydroelectric development, or other beneficial use of water, or for a water supply for any beneficial use, or for the carrying out of any of the purposes of the district, and to carry out and perform the terms of any contract so made.

CHAPTER 4. RULES AND REGULATIONS

SEC. 480. The board of directors shall have authority to adopt, by ordinance, reasonable rules and regulations to implement the provisions of this act. Any person guilty of violating any provisions of the rules and regulations shall be guilty of a misdemeanor.

PART 5. FINANCIAL PROVISIONS

CHAPTER 1. FUNDS AND ACCOUNTS

SEC. 500. Any funds of the district may be deposited in the county treasury subject to disbursement as county funds are disbursed, provided that the disbursal shall be pursuant to the provisions of this act, under the direction of the county auditor or such other fiscal officer as is appointed by the board of directors.

SEC. 501. The district may establish and maintain any separate funds and accounts which it deems necessary in carrying out its powers and purposes under this act.

SEC. 502. The district may make any transfers, for the purposes of a loan, from one fund to another fund of the district, or from one fund to another fund of a zone, upon such terms and conditions as the board of directors deems appropriate and to the extent permitted by law.

SEC. 503. The county auditor or other fiscal officer appointed by the board of directors may invest any funds of the district or zone in any security, debenture, bond, or deposit permitted and allowed by law for the investment of funds of a political subdivision of the state.

CHAPTER 2. IMPROVEMENT BONDS

SEC. 520. The district shall have the power, in any year, to issue improvement bonds in accordance with and pursuant to the provisions and procedures of the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935).

CHAPTER 3. SPECIAL BENEFIT BONDS

SEC. 525. The board of directors may determine that a bonded indebtedness should be incurred to pay the cost of any project which will confer a special benefit on the district as a whole, or a special benefit on any zone or participating zone. The principal and interest on the special benefit bonds shall be paid by revenue derived from an annual benefit assessment levied on the land benefited by the project for which the bonds were issued in the manner set forth in Chapter 1 (commencing with Section 700) of Part 7. Before adopting a resolution issuing special benefit bonds, the board of directors shall adopt a resolution of intention stating the intention to issue the special benefit bonds, the proposed amount of the bonds, the proposed denomination and maximum rate of interest of the bonds, a description of the proposed project for which the bonds shall be issued, and a description of the area which shall receive a special benefit from the proposed project and in which special benefits shall be levied to pay the principal and interest on the bonds. The resolution shall also state the time and place for a hearing by the board of directors on the proposal, at which time any interested person may appear and be heard.

SEC. 526. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing. The hearing may be consolidated with a hearing on any other proposal affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matter material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, or order the election on the proposal within the area affected, unless prior to the conclusion of the hearing, or any continued hearing, written protest

against the proposal signed by a majority in number of the eligible voters within the affected area are filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. If there is no majority protest, the board of directors shall not proceed with the proposal before holding an election within the affected area. A majority of the votes cast at the election shall be required to approve the proposal to issue the bonds.

SEC. 527. Any defect or irregularity in the proceedings in the calling or conduct of the special bond election shall not affect the validity of the bonds authorized by the election.

SEC. 528. The board of directors shall, pursuant to the provisions of this act, prescribe by resolution the form of the bonds, which shall include a designation of the district, zone, or participating zone affected, and of the interest coupons attached thereto. The bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date at a place or places to be fixed by the board and designated in the bonds, together with interest on all sums unpaid on that date until the whole of the indebtedness shall be paid.

SEC. 529. The board of directors may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of another series. The maturity of each series shall comply with this section. The board may fix a date not more than two years from the date of issuance for the earliest maturity of each issue of series.

SEC. 530. The bonds shall be issued in such denomination as the board of directors shall determine.

SEC. 531. The bonds shall be payable on the date at the place fixed in the bonds, and at the interest rate specified in the bonds, and shall be made payable annually or semiannually.

SEC. 532. The bonds shall be numbered consecutively and shall be signed by the chairman of the board of directors and countersigned by the auditor or other fiscal officer of the district, and the seal of the district shall be affixed thereto. Either or both signatures may be printed, engraved, or lithographed.

SEC. 533. The interest coupons, if any, of the bonds shall be numbered consecutively and signed by the auditor or other fiscal officer, or by his or her printed, engraved, or lithographed signature.

SEC. 534. The proceeds from the sale of bonds shall be paid into the district treasury, placed to the credit of the project funds, and expended only for the purpose for which the indebtedness was created. In the alternative, the proceeds of the sale of the bonds may be placed in the treasury of the county to the credit of the district and the respective zone, or participating zones thereof, for the uses and purposes of the district, zone, or participating zones voting the bonds, and the proper record of the transaction shall be placed upon the books of the county treasurer, and the bond funds shall be

applied exclusively to the purposes and objects mentioned in the resolution calling for the special bond election, subject to the provisions of this act. Payments from bond funds shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the district. Unexpended bond proceeds may be invested in any manner permitted by law for district investments, and any interest earned thereon shall be credited to the project fund and expended only for the purpose for which the indebtedness was created.

SEC. 535. Any bonds issued under the provisions of this chapter, and the interest thereon, shall be paid solely by revenue derived from annual benefit assessments levied as provided in this act. No zone nor the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from assessments in any of the several zones be used in payment of principal, or interest, or otherwise, of the bonded indebtedness chargeable to any other zone.

SEC. 536. Whenever bonds have been authorized by the district, and the proceeds of the sale thereof have been expended as authorized, and the board of directors shall by resolution determine that additional bonds shall be issed for carrying out any of the purposes of this act, the board of directors may again proceed as provided in this chapter for the issuance of bonds.

SEC. 537. The board of directors may by resolution determine that new bonds should be issued for the purpose of refunding any or all of the bonds outstanding of the district or any zone or participating zone. The procedure shall be the same as the procedure upon an original issue of bonds. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds, and may, if the holders of bonds of an original issue and the board of directors so agree, be exchanged for the original bonds; provided, that the face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board of directors may raise money to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

SEC. 538. Any bonds, original or refunding, may be made callable by resolution of the board of directors adopted at, or prior to, the time of issuing the bonds, and providing for the calling and redemption of the bonds, in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at a premium not exceeding 6 percent above the par value thereof and accrued interest. If any bonds are so made callable, a statement to that effect shall be set forth on the face of the bond. Notice of any redemption shall be published in the district pursuant to Section 6063 of the Government Code. The first publication of the notice shall be not less than 30 nor more than 90 days prior to the date fixed for the redemption. After the date fixed for the redemption, if the district shall have provided funds available for payment of the principal and

interest of the bonds so called, interest on the bonds shall thereafter cease.

SEC. 539. The bonds shall be sold at a public sale to the lowest bidder, after notice of the sale has been given by publication in the district, pursuant to Section 6061 of the Government Code, at least one week prior to the sale and after any other notice which the board of directors may deem proper.

The manner of making, submitting, and opening bids, and conducting the sale, and the terms thereof, shall be determined by the board of directors. The board is hereby given the right to reject any and all bids which in the judgment of the board are not in the best interest of the district. If no bids are received, or if all bids are rejected, the board may either readvertise or sell the bonds at private sale.

SEC. 540. Should a proposition for issuing bonds submitted at any election under this chapter fail to receive the requisite number of votes of the eligible voters voting at the election to incur the indebtedness for the purpose specified, the board of directors shall, not for six months after the election, call or order another election in the same area for incurring indebtedness and issuing bonds under this chapter, for the same objects and purposes.

SEC. 541. Any bond issued under the provisions of this chapter shall be free and exempt from all taxation within the State of California. It is hereby declared that the district is a district within the meaning of Section 1¾ of Article XIII and Section 13 of Article XI of the California Constitution.

SEC. 542. Any bond issued under the provisions of this chapter shall be legal investments for all trust funds, and for the funds of all insurance companies, banks both commercial and savings, and trust companies, for state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, the money or funds may be invested in bonds of the district, issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by law now or hereafter enacted be used as security for the performance of any act, the bonds of the district may be so used.

This section is intended to be and shall be considered the latest enactment with respect to the matters herein contained.

SEC. 543. The repeal or amendment of this act, or the dissolution or change in the boundaries of the district or any zone or participating zone shall not in any way affect or release any of the land in the district or zone from its liability on or from the obligations of any outstanding bonds or indebtedness or contracts for which the land is in any way security, until all bonds and outstanding indebtedness and contracts have been fully paid or discharged.

SEC. 544. The provisions of this chapter shall apply only to the issuance of special benefit bonds issued in accordance with the

provisions of this chapter.

CHAPTER 4. REVENUE BONDS

SEC. 550. If the board of directors by resolution determines that a bonded indebtedness to pay for the acquisition or construction of any project or work for any purposes of the district, zone, or participating zone or for refunding any outstanding bonds, should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district is authorized and shall have the power to define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and to issue revenue bonds all in the manner and as provided in the Revenue Bond Law of 1941, and for such purpose the district shall be considered a "local agency," as defined in Section 54307 of the Government Code.

CHAPTER 5. SHORT-TERM BORROWING

SEC. 560. The district may borrow money and incur indebtedness in the manner set forth in this chapter by action of the board of directors and without the necessity of calling and holding an election in the district.

SEC. 561. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district is authorized to expend funds.

SEC. 562. Indebtedness incurred under this chapter shall be evidenced by warrants of the district payable not to exceed five years from their date and bearing interest at a rate not to exceed the maximum interest permitted for the sale of bonds of the district.

SEC. 563. The warrants shall be issued by the district after the adoption by a four-fifths vote of all of the members of the board of directors of a resolution setting forth the form of the warrant, the maturity date or dates thereof, and the manner of execution thereof.

SEC. 564. The board of directors may in its resolution provide that the warrant shall be subject to call and redemption prior to maturity, at the option of the district, at such prices as may be fixed in the resolution, not exceeding a premium of 6 percent of the par value of the warrants so subject to redemption. The resolution shall fix a method of giving notice of redemption to the holders of warrants to be redeemed and the price at which the warrants shall be subject to redemption. Warrants so subject to call and redemption prior to maturity shall contain a recital to that effect on their face.

SEC. 565. The warrants issued shall be offered for public sale upon notice inviting sealed bids therefor. The notice shall be given by publication once in a newspaper of general circulation in the county and the sale shall not be held before 10 days after the publication. The board of directors may reject all bids received on public sale and either readvertise or sell the warrants at private sale. The district may sell the warrants at a price below par value not to

exceed 6 percent of the par value thereof.

CHAPTER 6. COUNTY FUNDING

SEC. 580. For the purpose of supplementing the general operating revenues of the district, upon request made by the board of directors, the board of supervisors is authorized to grant funds from the county general fund to the district without reimbursement from the district, for use for any purpose of the district for which the county is itself authorized to expend funds, and including, but not limited to, expenses incurred or estimated to be incurred during the next fiscal year for each of the following:

(a) The formation and administration of the district.

(b) The preparation of a comprehensive water resources and drainage management plan for the district for coordinating and managing the supply and distribution of water for all beneficial uses within the district and for coordinating and managing the control and disposal of drain, flood, and storm water within the district, and the formation of zones within the district for those purposes.

(c) The acquisition, development, distribution, and sale of water to the inhabitants of the district for all beneficial uses, including the acquisition of water rights by purchase or condemnation, and the acquisition, construction, repair, operation, and maintenance of works therefor.

(d) The acquisition, construction, repair, operation, and maintenance of works for control and disposal of drain, storm, and flood water within the district.

SEC. 581. The district shall keep any county funds in a separate account and, upon demand of the county, demonstrate that expenditures made therefrom were used only for the purposes enumerated in this chapter.

CHAPTER 7. MAXIMUM INTEREST AND DISCOUNT RATES

SEC. 590. Notwithstanding any other provision of law, a bond or evidence of indebtedness of the district, or zone or participating zone, as defined in this act, may bear interest at a rate or rates as determined by the board of directors in its discretion, but not to exceed 12 percent per year, unless some higher rate is permitted by law.

SEC. 591. In addition to interest paid on a bond or evidence of indebtedness of the district, the board of directors in its discretion may sell the bond or evidence of indebtedness at less than its par or face value not to exceed 6 percent of the par or face value thereof.

PART 6. ZONES

CHAPTER 1. FORMATION OF ZONES

SEC. 600. Improvement districts may be formed in the district in the same manner as improvement districts are formed in irrigation districts under the provisions of Part 7 (commencing with Section 23600) of Division 11 of the Water Code. In the alternative, improvement districts may be formed in the same manner as zones of benefit. Assessment districts may be formed in the district under the provisions of the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code). Improvement districts and assessment districts may be formed within the boundaries of any zone of benefit.

SEC. 601. If at any time it is desired to annex land to, or detach land from, a zone, a petition for that purpose signed by the owners of the land to be annexed or detached shall be filed with the board of directors, who shall commence proceedings thereon. In the alternative, the board of directors may initiate a proposal for a zone annexation or detachment. The board shall conduct a hearing on the proposal with the same notice and in the same manner as the hearing on the affected zone. For purposes of protests and an election on the proposal, the affected area shall consist of the land to be annexed to or detached from the zone. The board of directors may prescribe any reasonable condition to which the annexation or detachment shall be subject, if approved.

SEC. 602. The board of directors may establish zones of benefit within the district without reference to the boundaries of other zones. The land comprising a zone of benefit need not be contiguous. A zone of benefit shall be established only with respect to a project for the benefit of the zone of benefit and proceedings for the establishment of the zone of benefit may be conducted concurrently with, and as a part of, proceedings for the instituting of projects relating to the zone of benefit, the issuance of special benefit bonds, and the levy of benefit assessments.

SEC. 603. Whenever the board of directors determines that a zone of benefit should be formed for the purposes set forth in this chapter, the board shall adopt a resolution of intention which shall state the following:

(a) The intention of the board to form the proposed zone of benefit.

(b) The purpose for which the proposed zone of benefit is to be formed.

(c) The estimated expense of carrying out the purpose, if known.

(d) That assessments for carrying out the purpose shall be levied exclusively upon the lands in the proposed zone of benefit.

(e) That a map showing the exterior boundaries of the proposed zone of benefit, which map shall govern for all details as to the extent of the proposed zone of benefit, is on file with the district secretary and is available for inspection by any interested person or persons.

(f) The time and place for a hearing by the board on the formation on the proposed zone of benefit, the extent thereof, the purpose for which it is to be formed, the benefit to land within the proposed zone of benefit from carrying out that purpose, the estimated expense of carrying out that purpose, if known, or any other matter relating to any of the foregoing.

(g) That at the time and place specified any interested person, including all persons owning land in the district or in the proposed zone of benefit, may appear and be heard.

SEC. 604. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 605. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution of intention, at which time any interested person may appear and be heard concerning any matter set forth in the resolution of intention or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, or proceed with the proposal unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by a majority in number of the eligible voters within the proposed zone of benefit shall be filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

SEC. 606. At the conclusion of the hearing, the board of directors may, by resolution, order the zone of benefit formed for the purpose and with the exterior boundaries described therein. The resolution ordering formation shall state the estimated expense of carrying out the purpose described therein, if known. The resolution shall also number and designate the zone of benefit substantially as "Zone of Benefit Number _____ of the Sutter County Flood Control and Water Conservation District."

CHAPTER 2. ZONE COUNCIL

SEC. 620. After a zone has been formed, the board of directors may, by resolution, order the creation of a zone council within the zone. The resolution shall set forth the number of members of the council and their term of office. The zone council for a zone which consists entirely of the territory of an incorporated city may be comprised of the city council of the incorporated city. The members of all other zone councils shall be eligible voters of the zone in which the council is established and shall be elected to the council by the eligible voters of the zone. The resolution establishing the zone council shall set forth the procedure for conducting the election.

SEC. 621. Members of the zone council shall take office immediately upon certification of their election, filing of the official

oath, and execution of a bond, if any, in an amount set by the board of directors. At its first meeting, the zone council shall elect from its members a chairman and a vice chairman and shall fix their terms of office. A majority of the zone council shall constitute a quorum for the transaction of business. The vote of a majority of the zone council members present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act. Meetings of the zone council shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The zone council shall, by resolution, set the time and place for holding regular meetings. Zone councils shall receive compensation, if any, in an amount set by the board of directors.

SEC. 622. The purpose of a zone council is to assist the board of directors in the planning, acquisition, construction, operation, maintenance, and administration of projects within the zone in which it is established, and to coordinate the activity of the district within the zone with the activities of other public entities within the zone. The board of directors shall determine the specific responsibilities and powers of a zone council and may delegate to the zone council any of the authority of the board with respect to the planning, acquisition, construction, operation, maintenance, or administration of a project within the zone.

SEC. 623. In the case of projects for the benefit of two or more zones, the board of directors may establish a participating zone council for the project, selected by either (1) the appointment by each zone council of an equal number of representatives selected from its membership, with one additional member of the participating zone council to be appointed by the board of directors or mutually selected by the two affected zone councils, or (2) any other method mutually agreed upon by the two affected zone councils.

SEC. 624. A zone council or a participating zone council shall be dissolved upon four-fifths of all members of the board of directors or upon a majority vote of all of the members of the board of directors and a majority vote of all of the members of the zone council.

CHAPTER 3. SELECTION OF PROJECTS

SEC. 640. The board of directors shall determine which projects shall be carried out and shall determine, as to each project, that it is either: (1) for the common benefit of the district as a whole, or (2) for the benefit of a single zone, whether in existence or not, or (3) for the common benefit of participating zones, whether in existence or not.

SEC. 641. The district may institute multidistrict projects, districtwide projects, projects for single zones, and joint projects for participating zones for studying, planning, financing, constructing,

acquiring, maintaining, operating, extending, or repairing any work of common benefit to the district as a whole, to the zone, or to the participating zones, as the case may be. All powers of the district may be exercised or performed on behalf of and within a zone. Before proceeding with any project, the board of directors shall adopt a resolution of intention setting forth the proposed boundaries designating the benefited area and stating its intention to undertake the project, together with an estimate of the cost of the project to be borne by the district as a whole, or a particular zone, or participating zones, as the case may be, and fixing a time and place for public hearing on the resolution. The resolution shall refer to a map or maps showing the general location of the project and shall generally describe the project. Notice of the hearing shall be given in the same manner as for a resolution of intention to form a zone of benefit. The proceedings on the resolution proposing the project may be consolidated with the proceedings on a resolution proposing formation of a zone of benefit.

SEC. 642. The hearing may be consolidated with a hearing on the formation of a zone, the issuance of special benefit bonds, or the levy of benefit assessments affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, order an election on the proposal within the area affected, or proceed with the proposal, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by a majority in number of the eligible voters within the affected area shall be filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. The board of directors shall not proceed with the proposal without an election unless a majority in number of the eligible voters within the affected area have filed with the board written consent to the proposal. If the election is held, a majority of the votes cast at the election shall be required to approve the proposal.

PART 7. ASSESSMENTS

CHAPTER 1. BENEFIT ASSESSMENTS

SEC. 700. The district shall be authorized to levy benefit assessments on a districtwide basis or within any zone or participating zone. The benefit assessment may be levied in any manner which reasonably reflects the benefit that will accrue to the area being assessed for the purpose of the assessment, including, but not limited to: (1) per acre or fraction thereof basis; or (2) for benefit

assessments related to drain, storm, or flood control purposes, the proportionate water runoff from each parcel assessed.

SEC. 701. Benefit assessments may be levied for expenditures made, or expenditures estimated to be required during the next calendar or fiscal year, for any lawful purpose of the district, including, but not limited to, the following purposes:

(a) The formation and administration expenses of the districts.

(b) The formation and administration expenses of any zone.

(c) Engineering and other expenses in connection with the investigation and preparation of a resource management plan or plan for a work or project.

(d) Acquisition or construction of any work or project.

(e) Operation and maintenance of any work or project.

(f) Payment of principal and interest on special benefit bonds issued in the manner set forth in Chapter 3 (commencing with Section 525) of Part 5.

The revenues derived from the benefit assessment shall be used for no purpose other than the purpose specified at the time of levy of the assessment.

SEC. 702. The board of directors may adopt a resolution of intention to levy a special benefit assessment on land only. The resolution shall set forth the proposed amount, manner of levy, and purpose of the proposed benefit assessment, and designate by a map or otherwise, the boundaries of the area proposed for assessment, and shall designate a time and place of hearing on the resolution.

SEC. 703. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 704. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may terminate further proceedings on the proposed assessment, modify the proposed assessment, order an election on the assessment within the area to be assessed, or levy the assessment, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposed assessment signed by a majority in number of the eligible voters within the area to be assessed shall be filed with the board, in which event further proceedings relating to the proposed assessment shall be suspended for not less than six months following the date of the conclusion of the hearing. The board of directors shall not levy the assessment without an election unless a majority in number of the eligible voters within the affected area have filed with the board written consent to levy the assessment. If an election is held, a majority of the votes cast in the area to be assessed shall be required

to approve the assessment.

SEC. 705. After its approval, the benefit assessment shall be levied, collected, and enforced at the same time and in the same manner as county taxes.

SEC. 800. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 689

An act relating to water districts and, in this connection, to create the Placer County Flood Control and Water Conservation District to provide for water conservation, development of water resources, and control of drainage, storm, flood, and other waters, and prescribing its organization, powers, and duties.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

SECTION 1. This act shall be known and may be cited as the Placer County Flood Control and Water Conservation District Act.

CHAPTER 2. LEGISLATIVE INTENT

SEC. 20. The Legislature hereby finds that the water and drainage problems in Placer County require countywide water conservation, development of water resources, and control of drainage, storm, flood, and other waters. The Legislature finds that these problems are not general or statewide. The Legislature further finds that agricultural and residential development over widespread portions of the county have created drainage problems which cannot be economically resolved through existing public entities within the county, that to adequately and feasibly conserve the water supply and control the drainage, storm, flood, and other waters of the county, it is necessary to have a political entity coextensive with the geographical limits of the entire county, and that the geography of the county is such that there are numerous drainage areas and noncontiguous watersheds therein. Investigation having shown

conditions in the county to be peculiar to it, it is hereby declared that a general law cannot be made applicable to the county and that the enactment of this special law is necessary for the conservation, development, control, and use of water for the public good and for the protection of life and property within the county.

CHAPTER 3. CREATION AND TERRITORY

SEC. 40. A flood control and water conservation district is hereby created to be called the Placer County Flood Control and Water Conservation District. The district shall consist of all of the territory of the County of Placer lying within the exterior boundaries of the county.

CHAPTER 4. DEFINITIONS

SEC. 60. "Board of directors" means the board of directors of the district.

SEC. 61. "Board of supervisors" means the board of supervisors of the county.

SEC. 62. "County" means the County of Placer of the State of California.

SEC. 63. "Eligible voter" means a registered voter residing within the district.

SEC. 64. "Evidence of indebtedness" means any warrant, note, or other evidence of indebtedness of the district or any zone.

SEC. 65. "General district election" means the district election required to be held in each odd-numbered year to choose a successor for each elective officer, the term of whose office will expire at noon on the last Friday in November following the general district election.

SEC. 67. "Special election" means an election held within the district, other than the general district election, called to fill a vacancy on the board of directors or to vote on a ballot question.

SEC. 68. "Participating zone" means one of two or more zones benefiting from the same project or projects.

SEC. 69. "Project" means a work and all of the activities related to or necessary for acquisition, construction, operation, and maintenance of a work, including, but not limited to, planning, design, financing, and administration.

SEC. 70. "Work" or "works" shall include, but shall not be limited to, any of the following: reservoirs, dams, and all conduits and facilities for the control, conservation, diversion, and transmission of water for beneficial uses; drains, levees, and all ditches and facilities for the control and disposal of drainage, storm, and flood waters within the district; power plants, transmission lines, and all facilities for the generation and distribution of hydroelectric power; and all necessary property interests and rights-of-way.

SEC. 71. "Zone" means an improvement district, assessment

district, or zone of benefit of the district.

SEC. 72. "Zone election" means an election held entirely within a zone or participating zone, conducted in the manner prescribed by the board of directors.

SEC. 73. "Zone of benefit" means a zone of benefit formed under the provisions of Part 6 (commencing with Section 600).

CHAPTER 5. GENERAL PROVISIONS

SEC. 80. The Knox-Nisbet Act (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, and the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6 of the Government Code) shall not apply to the formation of the district or the formation or changes in the boundaries of any zone. For all other purposes, the district shall be a "district" as that term is defined in the District Reorganization Act of 1965.

SEC. 81. Noncontiguous territory, either within or beyond the boundaries of the county, may be annexed to or detached from the district.

SEC. 82. The boundaries of the district shall be automatically changed in the event of a change in the boundaries of the county.

SEC. 83. Any judicial action or proceeding to attack, review, set aside, void, annul, or challenge the validity or legality of the formation of a zone, any contract entered into by the district or a zone, any bond or evidence of indebtedness of the district or a zone, or any assessment, rate, or charge of the district or a zone shall be commenced within 60 days of the effective date thereof. Any such action or proceeding shall be brought pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. The district may bring an action pursuant to the provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any of the matters referred to in this section.

PART 2. INTERNAL ORGANIZATION

CHAPTER 1. THE BOARD OF DIRECTORS

SEC. 200. Upon the formation of the district, the board of supervisors shall be ex officio the board of directors. Each member of the board of supervisors shall serve as a member of the board of directors without additional compensation, except for actual, necessary, and reasonable expenses.

SEC. 201. The board of supervisors acting ex officio as the board of directors may, upon the vote of at least four of its members, adopt a resolution either: (1) appointing a board of directors composed of one director for each supervisorial district in the county, each of whom shall be an eligible voter within the supervisorial district he

or she is appointed to represent, and fixing a time and date on which the newly appointed directors shall take office, at which time the board of supervisors shall cease to be the ex officio board of directors, or (2) call a general district election or special election to fill the seats on the board of directors by election, in which event the board of supervisors shall cease to be the ex officio board of directors at the time the elected board of directors takes office.

SEC. 202. In the event that directors are appointed by the board of supervisors acting ex officio as the board of directors, they shall hold office until their successors take office following their election at the first general district election held after the appointment. At the first general district election of members of the board of directors, the directors elected from supervisorial districts 1, 3, and 5 shall be elected for a term of four years, and the directors elected from supervisorial districts 2 and 4 shall be elected for a term of two years.

SEC. 203. Except as otherwise provided for in this chapter, one director shall be elected from and by the eligible voters of each supervisorial district of the county for a four-year term. Directors shall not be elected on an at-large basis. Any change in the boundaries of supervisorial districts shall not take effect for purposes of the election of directors until the next general district election or special election following the change. Each director, other than the board of supervisors acting ex officio as the board of directors, shall be an eligible voter of the supervisorial district which he or she represents at the time of appointment or nomination and during his or her entire term of office.

SEC. 204. Prior to taking office, each director shall take the official oath and execute such bond as may be set by the board of directors.

SEC. 205. All vacancies occurring in the office of director shall be filled pursuant to Section 1780 of the Government Code.

SEC. 206. Each director, other than the board of supervisors acting ex officio as the board of directors, shall be entitled to receive compensation in an amount set by the board of directors and recorded in its official minutes, not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board of directors or for each day's service rendered as a director by request of the board of directors, not exceeding a total of six days in any calendar month, together with actual, necessary, and reasonable expenses incurred in the performance of duties required or authorized by the board of directors.

SEC. 207. At its first meeting and at its regular meeting in January each year thereafter, the board of directors shall elect a chairman and vice chairman from its members.

SEC. 208. The board of directors shall hold one or more regular meetings each month at such time and place as it may set by resolution. No change in the date of the regular meeting shall be effective until notice thereof has been published in a newspaper of

general circulation within the county at least seven days prior to the effective date of the change. Special meetings of the board of directors may be called and conducted in the manner provided for in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 209. A majority of the board of directors shall constitute a quorum for the transaction of business.

SEC. 210. The vote of a majority of the directors present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act or by law.

CHAPTER 2. OTHER OFFICERS AND EMPLOYEES

SEC. 220. Any county employee designated by the board of supervisors shall be an ex officio employee of the district, and shall perform without additional compensation the same duties for the district as for the county in order to carry out the provisions of this act, during the time the board of supervisors serves ex officio as the board of directors. Thereafter, a county employee may serve as an ex officio employee of the district with the consent of the board of supervisors and the board of directors.

SEC. 221. The board of directors may employ and appoint any agents, officers, employees, and consultants as may be required, prescribe their duties, fix their salaries, and prescribe the terms and conditions of their employment.

PART 3. ELECTIONS

CHAPTER 1. GENERAL PROVISIONS

SEC. 300. All district elections shall be conducted in conformance with the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), to the extent applicable, unless otherwise provided herein.

SEC. 301. Only eligible voters shall vote at district elections.

SEC. 302. Except as otherwise provided in this act, the county clerk shall conduct all elections within the district. The board of directors may, by resolution, determine that the district shall conduct an election and an officer designated by the district shall perform the duties of the county clerk in conducting the election.

SEC. 303. The board of directors may, by resolution, direct that any district election be conducted by all-mailed ballot under the procedure for mailed ballot elections set forth in the Elections Code. If the general district election is to be conducted by all-mailed ballot, it shall be conducted in accordance with Section 23509.5 of the Elections Code. If a special election is to be conducted by all-mailed ballot, other than a special election consolidated with the general district election which is also to be conducted by all-mailed ballot, it may be conducted on any Tuesday, unless it is the day before or the

day after a state holiday or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A special election to be conducted by all-mailed ballot may be consolidated with the general district election if it is also to be conducted by all-mailed ballot, and may be held on the date set forth in Section 23509.5 of the Elections Code.

CHAPTER 2. GENERAL DISTRICT ELECTIONS

SEC. 320. The general district election shall be held on the date provided for in the Uniform District Election Law for general district elections. The first general district election shall be held after the board of supervisors, acting ex officio as the board of directors, either appoints a board of directors or adopts a resolution calling the election as provided in Section 201.

CHAPTER 3. SPECIAL ELECTIONS

SEC. 340. Special elections may be called and conducted in the same manner as the general district election within the entire district or an affected supervisorial district or zone. The special election shall be held on one of the established election dates set forth in Section 2500 of the Elections Code or, if conducted by all-mailed ballot, in the manner provided for in this act.

SEC. 341. In the alternative to calling a special election within a zone under the provisions of the Uniform District Elections Law, the board of directors may call a zone election for any of the following purposes: to elect a zone council or to vote on proposals for the issuance of bonds, the approval of projects, or the levy of benefit assessments affecting the zone. A zone election may be held on any Tuesday, unless it is the day before or the day after a state holiday or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A zone election shall be conducted in the manner prescribed by the board of directors in its resolution calling the zone election. The resolution shall, among other things, set forth the term of office for zone council members to be elected, the notice requirements for the election, the period during which nominations for zone council may be filed, and whether the election will be conducted by all-mailed ballot. Except to the extent provided to the contrary in the resolution, the zone election will be conducted in the same manner as special elections in the district.

PART 4. POWER AND PURPOSES

CHAPTER 1. POWERS GENERALLY

SEC. 400. The district shall have the power generally to perform all acts necessary or proper to carry out fully the provisions of this act.

SEC. 401. The district may commence and maintain any action or proceeding to carry out its purposes or protect its interests and may defend any action or proceeding brought against it.

SEC. 402. The district may execute, by its chairman and secretary, all contracts and other documents necessary to carry out the powers and purposes of the district.

SEC. 403. The district shall have perpetual succession.

SEC. 404. The district shall have the power to adopt a seal and alter it at its pleasure.

SEC. 405. The powers of the district shall, except as otherwise provided, be exercised by the board of directors.

SEC. 406. As used in this section, "special district" means a city, irrigation district, water district, reclamation district, drainage district, or any other special district or mutual water company which has any of the powers enumerated in Sections 409, 410, 411, 412, 413, and 417. The district shall not exercise within the boundaries of a special district any power enumerated in Section 409, 410, 411, 412, 413, 415, or 417 which is common to the power of the special district, without the prior agreement of the governing body of the special district.

SEC. 407. The district shall have the power to take absolutely or on condition, by grant, purchase, gift, devise, lease, with or without the privilege of purchasing, or otherwise, real and personal property of every kind, of any interest in real or personal property within or outside of the district, necessary to the full exercise of its powers, and to hold, use, enjoy, and to lease or dispose of the same subject to the limitations set forth in this act.

SEC. 408. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner as provided.

The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district, inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The board may reject any and all bids.

If all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of ten thousand dollars ($10,000) or where the work consists of channel protection, or maintenance work, or emergency work necessary in order to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids therefor, have the work done by force account. The district may purchase in the

open market, without advertising for bids thereof, materials and supplies for use in any work either under contract or by force account.

The provisions of this section have no application to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

The district shall comply with Chapter 2 (commencing with Section 21000) of Part 3 of Division 2 of the Public Contract Code, which shall control over the provisions of this act to the extent of any inconsistency.

SEC. 409. The district shall have the power to do any and every lawful act necessary in order that sufficient water may be available for any present or future beneficial use or uses of the land or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses. Water which is surplus to the needs of the lands and inhabitants within the district may be made available for beneficial use outside the district.

SEC. 410. The district shall have the power to control drainage, flood, and storm water within the district and drainage, flood, and storm water of streams outside of the district which flow into the district; to conserve the water by storage and surface reservoirs, and to divert and transport the water for beneficial uses within the district; to release the water from surface reservoirs in order to replenish and augment the supply of water in natural underground reservoirs, to save or conserve in any manner all or any of the water; to reduce the waste of water; to provide subsurface drainage to alleviate conditions of high groundwater levels within the district; and to protect the watercourses, watersheds, public highways, and life and property within the district from damage from any such drainage, flood, or storm water.

SEC. 411. The district shall have the power to authorize an engineering investigation and report on any existing or potential groundwater problem. The report shall include, but not be limited to, a description of the existing and potential future conditions of and changes in the depth, quality, yield, and operation of the groundwater basin in question. The investigation shall indicate any conditions and changes in the groundwater basin which are or will be detrimental or beneficial to overlying lands, and shall indicate the areal extent of the effects, which shall constitute the project area. The report shall offer recommendations of what actions, if any, could be initiated to improve groundwater conditions within the project area. Upon review of the report, if the board of directors determines that specific actions are necessary to improve groundwater conditions, notwithstanding the provisions of Section 642, those actions shall not be implemented unless approved by two-thirds of the votes cast in an election conducted among eligible voters within the project area. Any actions to be implemented shall give the

following priority for use of groundwater:

(a) Use on overlying lands within the project area.

(b) Use on nonoverlying lands within the district.

(c) Export from the district.

SEC. 412. The district shall have the power to construct, operate, and maintain works to develop hydroelectric energy and transmission lines for the conveyance thereof. The power generated may be used by the district for its purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than a public utility or public agency.

The power to construct, operate, and maintain works to develop hydroelectric energy shall not include, and nothing in this act shall be construed to permit, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the district and the owner of that property.

SEC. 413. The district shall have the power within or outside the district to construct, purchase, lease, or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface waters and water rights, useful and necessary to make use of water for any purposes authorized by this act.

The power to purchase, lease, or acquire water rights set forth in this section may be exercised only with regard to those rights that may be offered for sale, lease, or acquisition by the person possessing them. The power to appropriate water rights set forth in this section is restricted to those rights that are not appropriated by another at the time the power is exercised.

SEC. 414. Any property or work of the district may be leased for a use or purpose which the board finds will not interfere with or be inconsistent with district uses or purposes, upon terms which appear to the board to be for the best interests of the district.

SEC. 415. The district may, within or outside the district within the state, acquire by purchase, condemnation, or other legal means all property or rights in property necessary or proper for district works and purposes of the district. Eminent domain proceedings may be brought by the district for these purposes pursuant to the provisions of Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

SEC. 416. The district shall have the power to operate and maintain any work. This power shall include the right to repair, modify, alter, adjust, and replace any work.

SEC. 417. The district shall have the power to make surveys and investigations for works relating to control of drainage, storm, and flood water within or flowing into the district, of the water supply and resources of the district, or for hydroelectric development. The district may carry on and perform technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water, water rights, use of water both within and outside of the district, or to the

control of drainage, storm, and flood water both within and which now flow into the district, or to hydroelectric development. For these purposes, the district shall have the right of access through its authorized representative to all properties within the district.

SEC. 418. The district may disseminate information to the public concerning the rights, properties, and activities of the district.

CHAPTER 2. RATES AND CHARGES

SEC. 440. The board of directors shall, by resolution following notice and public hearing, fix rates and charges for services provided by the district, reflecting the reasonable cost and value of providing the service. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the rate or charge.

SEC. 441. The district shall have authority, by resolution following notice and public hearing, to levy a standby or carrying charge, not to exceed ten dollars ($10) per acre or fraction of acre per year, against each acre of land or fraction thereof to which a service provided by the district is available, irrespective of whether the service is actually used. However, no standby or carrying charge for water service shall be applied to lands situated more than one-quarter of a mile from an available main or service connection. The resolution shall be published one time in a newspaper of general circulation in the district at least seven days before the effective date of the standby charge.

SEC. 442. Rates and charges, including standby charges, when due are a lien on the landowner's land to whom the service is provided or made available, in the nature of assessments, and may be collected and enforced in the manner provided in this act for the collection and enforcement of assessments.

SEC. 443. Rates and charges, including standby charges, may be made payable in advance. The district may, by resolution, provide that rates and charges which remain unpaid for a period of not less than 30 days after they have become due shall be delinquent, and a one-time penalty not in excess of 10 percent shall be added on each charge as it becomes delinquent, and all delinquent rates and charges and penalties shall bear interest at a rate not in excess of 18 percent per year.

CHAPTER 3. CONTRACTS WITH THE UNITED STATES AND OTHER AGENCIES

SEC. 460. The district shall have the power to cooperate and contract with the United States, the State of California, or any department or agency of either, or with any other district or political subdivision of the state empowered by law to appropriate water and deliver water to users, or control drainage, storm, flood or other waters, for the purposes of acquisition, construction, purchase,

extension, operation, or maintenance of works, whether for irrigation, drainage, flood control, water conservation, hydroelectric development, or any other beneficial use of water, or for a water supply for any beneficial use, or for the carrying out of any of the purposes of the district, and to carry out and perform the terms of any contract so made.

CHAPTER 4. RULES AND REGULATIONS

SEC. 480. The board of directors shall have authority to adopt, by ordinance, reasonable rules and regulations to implement the provisions of this act. Any person guilty of violating any provisions of the rules and regulations shall be guilty of a misdemeanor.

PART 5. FINANCIAL PROVISIONS

CHAPTER 1. FUNDS AND ACCOUNTS

SEC. 500. Any funds of the district may be deposited in the county treasury subject to disbursement as county funds are disbursed, provided that the disbursal shall be pursuant to the provisions of this act, under the direction of the county auditor or such other fiscal officer as is appointed by the board of directors.

SEC. 501. The district may establish and maintain any separate funds and accounts which it deems necessary in carrying out its powers and purposes under this act.

SEC. 502. The district may make any transfers, for the purposes of a loan, from one fund to another fund of the district, or from one fund to another fund of a zone, upon such terms and conditions as the board of directors deems appropriate and to the extent permitted by law.

SEC. 503. The county auditor or other fiscal officer appointed by the board of directors may invest any funds of the district or zone in any security, debenture, bond, or deposit permitted and allowed by law for the investment of funds of a political subdivision of the state.

CHAPTER 2. IMPROVEMENT BONDS

SEC. 520. The district shall have the power, in any year, to issue improvement bonds in accordance with and pursuant to the provisions and procedures of the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935).

CHAPTER 3. SPECIAL BENEFIT BONDS

SEC. 525. The board of directors may determine that a bonded indebtedness should be incurred to pay the cost of any project which will confer a special benefit on the district as a whole, or a special benefit on any zone or participating zone. The principal and interest on the special benefit bonds shall be paid by revenue derived from an annual benefit assessment levied on the land benefited by the project for which the bonds were issued in the manner set forth in Chapter 1 (commencing with Section 700) of Part 7. Before adopting a resolution issuing special benefit bonds, the board of directors shall adopt a resolution of intention stating the intention to issue the special benefit bonds, the proposed amount of the bonds, the proposed denomination and maximum rate of interest of the bonds, a description of the proposed project for which the bonds shall be issued, and a description of the area which shall receive a special benefit from the proposed project and in which special benefits shall be levied to pay the principal and interest on the bonds. The resolution shall also state the time and place for a hearing by the board of directors on the proposal, at which time any interested person may appear and be heard.

SEC. 526. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing. The hearing may be consolidated with a hearing on any other proposal affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matter material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, or order the election on the proposal within the area affected, unless prior to the conclusion of the hearing, or any continued hearing, written protest against the proposal signed by a majority in number of the eligible voters within the affected area are filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. If there is no majority protest, the board of directors shall not proceed with the proposal before holding an election within the affected area. A majority of the votes cast at the election shall be required to approve the proposal to issue the bonds.

SEC. 527. Any defect or irregularity in the proceedings in the calling or conduct of the special bond election shall not affect the validity of the bonds authorized by the election.

SEC. 528. The board of directors shall, pursuant to the provisions of this act, prescribe by resolution the form of the bonds, which shall include a designation of the district, zone, or participating zone

affected, and of the interest coupons attached thereto. The bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date at a place or places to be fixed by the board and designated in the bonds, together with interest on all sums unpaid on that date until the whole of the indebtedness shall be paid.

SEC. 529. The board of directors may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of another series. The maturity of each series shall comply with this section. The board may fix a date not more than two years from the date of issuance for the earliest maturity of each issue or series.

SEC. 530. The bonds shall be issued in such denomination as the board of directors shall determine.

SEC. 531. The bonds shall be payable on the date at the place fixed in the bonds, and at the interest rate specified in the bonds, and shall be made payable annually or semiannually.

SEC. 532. The bonds shall be numbered consecutively and shall be signed by the chairman of the board of directors and countersigned by the auditor or other fiscal officer of the district, and the seal of the district shall be affixed thereto. Either or both signatures may be printed, engraved, or lithographed.

SEC. 533. The interest coupons, if any, of the bonds shall be numbered consecutively and signed by the auditor or other fiscal officer, or by his or her printed, engraved or lithographed signature.

SEC. 534. The proceeds from the sale of bonds shall be paid into the district treasury, placed to the credit of the project fund, and expended only for the purpose for which the indebtedness was created. In the alternative, the proceeds of the sale of the bonds may be placed in the treasury of the county to the credit of the district and the respective zone, or participating zones thereof, for the uses and purposes of the district, zone, or participating zones voting the bonds, and the proper record of the transaction shall be placed upon the books of the county treasurer, and the bond funds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for the special bond election, subject to the provisions of this act. Payments from bond funds shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the district. Unexpended bond proceeds may be invested in any manner permitted by law for district investments, and any interest earned thereon shall be credited to the project fund and expended only for the purpose for which the indebtedness was created.

SEC. 535. Any bonds issued under the provisions of this chapter, and the interest thereon, shall be paid solely by revenue derived from annual benefit assessments levied as provided in this act. No zone nor the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from

assessments in any of the several zones be used in payment of principal, or interest, or otherwise, of the bonded indebtedness chargeable to any other zone.

SEC. 536. Whenever bonds have been authorized by the district, and the proceeds of the sale thereof have been expended as authorized, and the board of directors shall by resolution determine that additional bonds shall be issued for carrying out any of the purposes of this act, the board of directors may again proceed as provided in this chapter for the issuance of bonds.

SEC. 537. The board of directors may by resolution determine that new bonds should be issued for the purpose of refunding any or all of the bonds outstanding of the district or any zone or participating zone. The procedure shall be the same as the procedure upon an original issue of bonds. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds, and may, if the holders of bonds of an original issue and the board of directors so agree, be exchanged for the original bonds; provided, that the face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board of directors may raise money to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

SEC. 538. Any bonds, original or refunding, may be made callable by resolution of the board of directors adopted at, or prior to, the time of issuing the bonds, and providing for the calling and redemption of the bonds, in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at a premium not exceeding 6 percent above the par value thereof and accrued interest. If any bonds are so made callable, a statement to that effect shall be set forth on the face of the bond. Notice of any redemption shall be published in the district pursuant to Section 6063 of the Government Code. The first publication of the notice shall be not less than 30 nor more than 90 days prior to the date fixed for the redemption. After the date fixed for the redemption, if the district shall have provided funds available for payment of the principal and interest of the bonds so called, interest on the bonds shall thereafter cease.

SEC. 539. The bonds shall be sold at a public sale to the lowest bidder, after notice of the sale has been given by publication in the district, pursuant to Section 6061 of the Government Code, at least one week prior to the sale and after any other notice which the board of directors may deem proper.

The manner of making, submitting, and opening bids, and conducting the sale, and the terms thereof, shall be determined by the board of directors. The board is hereby given the right to reject any and all bids which in the judgment of the board are not in the best interest of the district. If no bids are received, or if all bids are rejected, the board may either readvertise or sell the bonds at private sale.

SEC. 540. Should a proposition for issuing bonds submitted at any election under this chapter fail to receive the requisite number of votes of the eligible voters voting at the election to incur the indebtedness for the purpose specified, the board of directors shall not for six months after the election, call or order another election in the same area for incurring indebtedness and issuing bonds under this chapter, for the same objects and purposes.

SEC. 541. Any bond issued under the provisions of this chapter shall be free and exempt from all taxation within the State of California. It is hereby declared that the district is a district within the meaning of Section 1¾ of Article XIII and Section 13 of Article XI of the California Constitution.

SEC. 542. Any bond issued under the provisions of this chapter shall be legal investments for all trust funds, and for the funds of all insurance companies, banks both commercial and savings, and trust companies, for state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, the money or funds may be invested in bonds of the district, issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by law now or hereafter enacted be used as security for the performance of any act, the bonds of the district may be so used.

This section is intended to be and shall be considered the latest enactment with respect to the matters herein contained.

SEC. 543. The repeal or amendment of this act, or the dissolution or change in the boundaries of the district or any zone or participating zone shall not in any way affect or release any of the land in the district or zone from its liability on or from the obligations of any outstanding bonds or indebtedness or contracts for which the land is in any way security, until all the bonds and outstanding indebtedness and contracts have been fully paid or discharged.

SEC. 544. The provisions of this chapter shall apply only to the issuance of special benefit bonds issued in accordance with the provisions of this chapter.

CHAPTER 4. REVENUE BONDS

SEC. 550. If the board of directors by resolution determines that a bonded indebtedness to pay for the acquisition or construction of any project or work for any purposes of the district, zone, or participating zone or for refunding any outstanding bonds, should be incurred and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district is authorized and shall have the power to define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and to issue revenue bonds all in the manner and as provided in the Revenue Bond Law of 1941, and for such

purpose the district shall be considered a "local agency," as defined in Section 54307 of the Government Code.

CHAPTER 5. SHORT-TERM BORROWING

SEC. 560. The district may borrow money and incur indebtedness in the manner set forth in this chapter by action of the board of directors and without the necessity of calling and holding an election in the district.

SEC. 561. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district is authorized to expend funds.

SEC. 562. Indebtedness incurred under this chapter shall be evidenced by warrants of the district payable not to exceed five years from their date and bearing interest at a rate not to exceed the maximum interest permitted for the sale of bonds of the district.

SEC. 563. The warrants shall be issued by the district after the adoption by a four-fifths vote of all of the members of the board of directors of a resolution setting forth the form of the warrant, the maturity date or dates thereof, and the manner of execution thereof.

SEC. 564. The board of directors may in its resolution provide that the warrant shall be subject to call and redemption prior to maturity, at the option of the district, at such price as may be fixed in the resolution, not exceeding a premium of 6 percent of the par value of the warrants so subject to redemption. The resolution shall fix a method of giving notice of redemption to the holders of warrants to be redeemed and the price at which the warrants shall be subject to redemption. Warrants so subject to call and redemption prior to maturity shall contain a recital to that effect on their face.

SEC. 565. The warrants issued shall be offered for public sale upon notice inviting sealed bids therefor. The notice shall be given by publication once in a newspaper of general circulation in the county and the sale shall not be held before 10 days after the publication. The board of directors may reject all bids received on public sale and either readvertise or sell the warrants at private sale. The district may sell the warrants at a price below par value not to exceed 6 percent of the par value thereof.

CHAPTER 6. COUNTY FUNDING

SEC. 580. For the purpose of supplementing the general operating revenues of the district, upon request made by the board of directors, the board of supervisors is authorized to grant funds from the county general fund to the district without reimbursement from the district, for use for any purpose of the district for which the county is itself authorized to expend funds, and including, but not limited to, expenses incurred or estimated to be incurred during the next fiscal year for each of the following:

(a) The formation and administration of the district.

(b) The preparation of a comprehensive water resources and

drainage management plan for the district for coordinating and managing the supply and distribution of water for all beneficial uses within the district and for coordinating and managing the control and disposal of drain, flood, and storm water within the district, and the formation of zones within the district for those purposes.

(c) The acquisition, development, distribution, and sale of water to the inhabitants of the district for all beneficial uses, including the acquisition of water rights by purchase or condemnation and the acquisition, construction, repair, operation, and maintenance of works therefor

(d) The acquisition, construction, repair, operation, and maintenance of works for control and disposal of drain, storm, and flood water within the district.

SEC. 581. The district shall keep any county funds in a separate account and, upon demand of the county, demonstrate that expenditures made therefrom were used only for the purposes enumerated in this chapter.

CHAPTER 7. MAXIMUM INTEREST AND DISCOUNT RATES

SEC. 590. Notwithstanding any other provision of law, a bond or evidence of indebtedness of the district, or zone or participating zone, as defined in this act, may bear interest at a rate or rates as determined by the board of directors in its discretion, but not to exceed 12 percent per year, unless some higher rate is permitted by law.

SEC. 591. In addition to interest paid on a bond or evidence of indebtedness of the district, the board of directors in its discretion may sell the bond or evidence of indebtedness at less than its par or face value not to exceed 6 percent of the par or face value thereof.

PART 6. ZONES

CHAPTER 1. FORMATION OF ZONES

SEC. 600. Improvement districts may be formed in the district in the same manner as improvement districts are formed in irrigation districts under the provisions of Part 7 (commencing with Section 23600) of Division 11 of the Water Code. In the alternative, improvement districts may be formed in the same manner as zones of benefit. Assessment districts may be formed in the district under the provisions of the Improvement Bond Act of 1915 (Division 10, (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code). Improvement districts and assessment districts may be formed within the boundaries of any zone of benefit.

SEC. 601. If at any time it is desired to annex land to, or detach land from, a zone, a petition for that purpose signed by the owners

of the land to be annexed or detached shall be filed with the board of directors, who shall commence proceedings thereon. In the alternative, the board of directors may initiate a proposal for a zone annexation or detachment. The board shall conduct a hearing on the proposal with the same notice and in the same manner as the hearing on the affected zone. For purposes of protests and an election on the proposal, the affected area shall consist of the land to be annexed to or detached from the zone. The board of directors may prescribe any reasonable condition to which the annexation or detachment shall be subject, if approved.

SEC. 602. The board of directors may establish zones of benefit within the district without reference to the boundaries of other zones. The land comprising a zone of benefit need not be contiguous. A zone of benefit shall be established only with respect to a project for the benefit of the zone of benefit and proceedings for the establishment of the zone of benefit may be conducted concurrently with, and as a part of, proceedings for the instituting of projects relating to the zone of benefit, the issuance of special benefit bonds, and the levy of benefit assessments.

SEC. 603. Whenever the board of directors determines that a zone of benefit should be formed for the purposes set forth in this chapter, the board shall adopt a resolution of intention which shall state the following:

(a) The intention of the board to form the proposed zone of benefit.

(b) The purpose for which the proposed zone of benefit is to be formed.

(c) The estimated expense of carrying out the purpose, if known.

(d) That assessments for carrying out the purpose shall be levied exclusively upon the lands in the proposed zone of benefit.

(e) That a map showing the exterior boundaries of the proposed zone of benefit, which map shall govern for all details as to the extent of the proposed zone of benefit, is on file with the district secretary and is available for inspection by any interested person or persons.

(f) The time and place for a hearing by the board on the formation on the proposed zone of benefit, the extent thereof, the purpose for which it is to be formed, the benefit to land within the proposed zone of benefit from carrying out that purpose, the estimated expense of carrying out that purpose, if known, or any other matter relating to any of the foregoing.

(g) That at the time and place specified any interested person, including all persons owning land in the district or in the proposed zone of benefit, may appear and be heard.

SEC. 604. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 605. At the time and place so fixed, or at any time or place

to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution of intention, at which time any interested person may appear and be heard concerning any matter set forth in the resolution of intention or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, or proceed with the proposal unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by a majority in number of the eligible voters within the proposed zone of benefit shall be filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

SEC. 606. At the conclusion of the hearing, the board of directors may, by resolution, order the zone of benefit formed for the purpose and with the exterior boundaries described therein. The resolution ordering formation shall state the estimated expense of carrying out the purpose described therein, if known. The resolution shall also number and designate the zone of benefit substantially as "Zone of Benefit Number _____ of the Placer County Flood Control and Water Conservation District."

CHAPTER 2. ZONE COUNCIL

SEC. 620. After a zone has been formed, the board of directors may, by resolution, order the creation of a zone council within the zone. The resolution shall set forth the number of members of the council and their term of office. The zone council for a zone which consists entirely of the territory of an incorporated city may be comprised of the city council of the incorporated city. The members of all other zone councils shall be eligible voters of the zone in which the council is established and shall be elected to the council by the eligible voters of the zone. The resolution establishing the zone council shall set forth the procedure for conducting the election.

SEC. 621. Members of the zone council shall take office immediately upon certification of their election, filing of the official oath, and execution of a bond, if any, in an amount set by the board of directors. At its first meeting, the zone council shall elect from its members a chairman and a vice chairman and shall fix their terms of office. A majority of the zone council shall constitute a quorum for the transaction of business. The vote of a majority of the zone council members present at any meeting attended by a quorum shall be necessary to take action, unless otherwise specified in this act. Meetings of the zone council shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The zone council shall, by resolution, set the time and place for holding regular meetings. Zone councils shall receive compensation, if any, in an amount set by the board of directors.

SEC. 622. The purpose of a zone council is to assist the board of directors in the planning, acquisition, construction, operation, maintenance, and administration of projects within the zone in which it is established, and to coordinate the activity of the district within the zone with the activities of other public entities within the zone. The board of directors shall determine the specific responsiblities and powers of a zone council and may delegate to the zone council any of the authority of the board with respect to the planning, acquisition, construction, operation, maintenance, or administration of a project within the zone.

SEC. 623. In the case of projects for the benefit of two or more zones, the board of directors may establish a participating zone council for the project, selected by either (1) the appointment by each zone council of an equal number of representatives selected from its membership, with one additional member of the participating zone council to be appointed by the board of directors or mutually selected by the two affected zone councils, or (2) any other method mutually agreed upon by the two affected zone councils.

SEC. 624. A zone council or a participating zone council shall be dissolved upon four-fifths of all members of the board of directors or upon a majority vote of all of the members of the board of directors and a majority vote of all of the members of the zone council.

CHAPTER 3. SELECTION OF PROJECTS

SEC. 640. The board of directors shall determine which projects shall be carried out and shall determine, as to each project, that it is either: (1) for the common benefit of the district as a whole, or (2) for the benefit of a single zone, whether in existence or not, or (3) for the common benefit of participating zones, whether in existence or not.

SEC. 641. The district may institute districtwide projects, projects for single zones, and joint projects for participating zones for studying, planning, financing, constructing, acquiring, maintaining, operating, extending, or repairing any work of common benefit to the district as a whole, to the zone, or to the participating zones, as the case may be. All powers of the district may be exercised or performed on behalf of and within a zone. Before proceeding with any project, the board of directors shall adopt a resolution of intention setting forth the proposed boundaries designating the benefitted area and stating its intention to undertake the project, together with an estimate of the cost of the project to be borne by the district as a whole, or a particular zone, or participating zones, as the case may be, and fixing a time and place for public hearing on the resolution. The resolution shall refer to a map or maps showing the general location of the project and shall generally describe the project. Notice of the hearing shall be given in the same manner as for a resolution of intention to form a zone of benefit. The

proceedings on the resolution proposing the project may be consolidated with the proceedings on a resolution proposing formation of a zone of benefit.

SEC. 642. The hearing may be consolidated with a hearing on the formation of a zone, the issuance of special benefit bonds, or the levy of benefit assessments affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, order an election on the proposal within the area affected, or proceed with the proposal, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by a majority in number of the eligible voters within the affected area shall be filed with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing. The board of directors shall not proceed with the proposal without an election unless a majority in number of the eligible voters within the affected area have filed with the board written consent to the proposal. If the election is held, a majority of the votes cast at the election shall be required to approve the proposal.

PART 7. ASSESSMENTS

CHAPTER 1. BENEFIT ASSESSMENTS

SEC. 700. The district shall be authorized to levy benefit assessments on a districtwide basis or within any zone or participating zone. The benefit assessment may be levied in any manner which reasonably reflects the benefit that will accrue to the area being assessed for the purpose of the assessment, including, but not limited to: (1) per acre or fraction thereof basis, or (2) for benefit assessments related to drain, storm, or flood control purposes, the proportionate water runoff from each parcel assessed.

SEC. 701. Benefit assessments may be levied for expenditures made, or expenditures estimated to be required during the next calendar or fiscal year, for any lawful purpose of the district, including, but not limited to, the following purposes:

(a) The formation and administration expenses of the districts.

(b) The formation and administration expenses of any zone.

(c) Engineering and other expenses in connection with the investigation and preparation of a resource managment plan or plan for a work or project.

(d) Acquisition or construction of any work or project.

(e) Operation and maintenance of any work or project.

(f) Payment of principal and interest on special benefit bonds

issued in the manner set forth in Chapter 3 (commencing with Section 525) of Part 5.

The revenues derived from the benefit assessment shall be used for no purpose other than the purpose specified at the time of levy of the assessment.

SEC. 702. The board of directors may adopt a resolution of intention to levy a special benefit assessment on land only. The resolution shall set forth the proposed amount, manner of levy, and purpose of the proposed benefit assessment and designate by a map or otherwise the boundaries of the area proposed for assessment, and shall designate a time and place of hearing on the resolution.

SEC. 703. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 704. At the time and place so fixed, or at any time or place to which the hearing is continued, the board of directors shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may terminate further proceedings on the proposed assessment, modify the proposed assessment, order an election on the assessment within the area to be assessed, or levy the assessment, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposed assessment signed by a majority in number of the eligible voters within the area to be assessed shall be filed with the board, in which event further proceedings relating to the proposed assessment shall be suspended for not less than six months following the date of the conclusion of the hearing. The board of directors shall not levy the assessment without an election unless a majority in number of the eligible voters within the affected area have filed with the board written consent to levy the assessment. If an election is held, a majority of the votes cast in the area to be assessed shall be required to approve the assessment.

SEC. 705. After its approval, the benefit assessment shall be levied, collected, and enforced at the same time and in the same manner as county taxes.

SEC. 800. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 690

An act to amend Section 65400 of, to repeal Section 65007 of, to repeal and add Article 1 (commencing with Section 65100) of, and to repeal Article 2 (commencing with Section 65150), Article 3 (commencing with Section 65200), Article 4 (commencing with Section 65250), Article 11 (commencing with Section 65600), and Article 12 (commencing with Section 65650) of, Chapter 3 of Division 1 of Title 7 of the Government Code, relating to planning.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 65007 of the Government Code is repealed.

SEC. 1.5. Article 1 (commencing with Section 65100) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 2. Article 1 (commencing with Section 65100) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 1. Local Planning

65100. There is in each city and county a planning agency with the powers necessary to carry out the purposes of this title. The legislative body of each city and county shall by ordinance assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary. In the absence of an assignment, the legislative body shall carry out all the functions of the planning agency.

65101. The legislative body may create one or more planning commissions each of which shall report directly to the legislative body. Two or more legislative bodies may create a joint area planning commission for all or prescribed portions of their cities or counties. The legislative body shall specify the membership of the commission or commissions. In any event, each planning commission shall consist of at least five members, all of whom shall act in the public interest. If it creates more than one planning commission, the legislative body shall prescribe the issues, responsibilities, or geographic jurisdiction assigned to each commission. If a development project affects the jurisdiction of more than one planning commission, the legislative body shall designate the commission which shall hear the entire development project.

65102. A legislative body may establish for its planning agency any rules, procedures, or standards which do not conflict with state or federal laws.

65103. Each planning agency shall perform all of the following

functions:

(a) Prepare, periodically review, and revise, as necessary, the general plan.

(b) Implement the general plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.

(c) Annually review the capital improvement program of the city or county and the local public works projects of other local agencies for their consistency with the general plan, pursuant to Article 7 (commencing with Section 65400).

(d) Endeavor to promote public interest in, comment on, and understanding of the general plan, and regulations relating to it.

(e) Consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens generally concerning implementation of the general plan.

(f) Promote the coordination of local plans and programs with the plans and programs of other public agencies.

(g) Perform other functions as the legislative body provides, including conducting studies and preparing plans other than those required or authorized by this title.

65104. The legislative body shall provide the funds, equipment, and accommodations necessary or appropriate for the work of the planning agency. If the legislative body, including that of a charter city, establishes any fees to support the work of the planning agency, the fees shall not exceed the reasonable cost of providing the service for which the fee is charged. The legislative body shall impose the fees pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

65105. In the performance of their functions, planning agency personnel may enter upon any land and make examinations and surveys, provided that the entries, examinations, and surveys do not interfere with the use of the land by those persons lawfully entitled to the possession thereof.

SEC. 3. Article 2 (commencing with Section 65150) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 4. Article 3 (commencing with Section 65200) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 5. Article 4 (commencing with Section 65250) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 5.5. Section 65400 of the Government Code is amended to read:

65400. After the county or city legislative body has adopted all or part of a general plan, the planning agency shall:

(a) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open space land and natural

resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(b) Provide an annual report to the legislative body on the status of the plan and progress in its implementation.

SEC. 6. Article 11 (commencing with Section 65600) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 7. Article 12 (commencing with Section 65650) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 8. It is the intent of the Legislature in enacting this act to consolidate and simplify the statutes relating to the organization and financing of city and county planning agencies, departments, and commissions. It is not the intent of the Legislature to mandate new programs or higher levels of service on cities and counties. The responsibilities imposed by Section 2 of this act are no greater than the responsibilities currently imposed on cities and counties by the statutes which are repealed or amended by Sections 1, 3, 4, 5, 5.5, 6, and 7 of this act.

The powers addressed by Section 2 of this act are powers currently granted to cities and counties by Section 7 of Article XI of the California Constitution. Section 2 of this act is a continuation and enhancement of those powers, as previously addressed by the statutes which are repealed or amended by Sections 1, 1.5, 3, 4, 5, 5.5, 6, and 7 of this act.

CHAPTER 691

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
Cotton pests abatement districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.

Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authority.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.

Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under,

or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in

accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Second Validating Act of 1984.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 692

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.

City maintenance districts.

Community college districts.

Community facilities districts.

Community service district improvement districts.

Community service districts.

Conservancy districts.

Cotton pests abatement districts.

County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authority.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.

Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District
Storm water districts.

Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing

board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has

heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Third Validating Act of 1984.

CHAPTER 693

An act to amend Section 14674 of the Government Code, relating to state property, and making an appropriation therefor.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 14674 of the Government Code is amended to read:

14674. (a) With the consent of the state agency concerned, the director may authorize the sale or exchange of any personal property which belongs to the state, if he or she deems the sale or exchange is in the best interests of the state.

(b) All money received by a state agency for the sale of personal property, or surplus personal property pursuant to subdivision (c), shall be accounted for to the Controller, who shall remit the money to the fund or funds from which the state agency receives the majority of its support appropriation. The money may be made available by the Department of Finance for expenditure by the state agency in augmentation of its support appropriation subject to the requirements of Section 28.00 of the Budget Act.

(c) Personal property which is identified by the Department of General Services as surplus to a state agency's needs, the determination of which is concurred in by the state agency concerned, shall be sold or otherwise disposed of by the state agency within one year after that identification. The one-year time period for sale or disposition may be extended for good cause upon approval by the department. The proposed method of sale or disposition shall be subject to the approval of the department.

(d) If the surplus personal property is not sold or otherwise disposed of within the one-year period or extension thereof, possession and control of the personal property shall vest in the department, which may then sell, trade, or otherwise dispose of the surplus personal property, as determined by the department to be in the best interests of the state. The proceeds from sales held by the department under this subdivision shall be deposited in the General Fund, less any amounts sufficient for the department to recover its costs.

(e) Notwithstanding subdivisions (b) and (d), state personal property purchased with federal funds and later disposed of as surplus pursuant to this section shall be disposed of in accordance with federal requirements, including any requirement for remittance of the proceeds from those sales to the appropriate federal fund or agency. The Department of General Services, or the state agency concerned if it is holding the sale, may, however, if not precluded by federal law, deduct from the proceeds its costs for holding the sales.

CHAPTER 694

An act to amend Section 978.5 of the Unemployment Insurance Code, relating to unemployment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 978.5 of the Unemployment Insurance Code is amended to read:

978.5. (a) Except as provided in subdivision (e), any employer who has elected under Section 1279.5 to participate in the shared work unemployment insurance benefit program, who has a negative reserve account balance on June 30 of two consecutive years, and whose reserve account has been charged for benefits paid under Section 1279.5 during the 12-month period ending upon the later June 30 shall pay into the Unemployment Fund, in addition to all other contributions required by this division, contributions for the calendar year next succeeding such June 30 equal to the amount of benefits paid under Section 1279.5 during the 12-month period. These additional contributions shall be assessed annually and may be paid in quarterly installments, not to exceed 12 months from the date of assessment, at the time and in the manner prescribed by the director.

(b) Contributions paid pursuant to this section shall be "contributions paid on his or her own behalf" as defined by Section 906.

(c) Contributions paid by an employer pursuant to this section for the 12-month period ending December 31, 1983, in excess of the amount of benefits paid pursuant to Section 1279.5 and charged to the employer's reserve account in the 12-month period ending June 30, 1982, shall be deemed erroneously collected and the employer shall be entitled to a credit pursuant to Article 9 (commencing with Section 1176) in the amount of contributions erroneously collected. Within 90 days after the effective date of this subdivision, the director shall provide a copy and explanation of this section to all employers who, on or after July 1, 1981, have had in effect a worksharing unemployment insurance plan and are subject to contributions pursuant to this section. No interest shall be charged or payable on refunds made under this subdivision.

(d) The director shall provide a copy and explanation of this section to all employers who submit an application pursuant to Section 1279.5.

(e) Any employer who has or had a plan under Section 1279.5 which was approved under standards applicable prior to July 28, 1983, who has a negative reserve balance on June 30 of two consecutive years, and whose reserve account has been charged for benefits paid under Section 1279.5 during the 12-month period ending upon the later June 30, may elect to pay into the Unemployment Fund, in lieu of the contributions required under subdivision (a) for the calendar year 1984 or 1985, or both, contributions for the calendar year 1984 or 1985, or both, upon all wages with respect to employment at the rate prescribed by this subdivision based upon the ratio of the employer's actual net balance of reserve to the employer's average base payroll. If as of June 30 an employer's actual net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any

line in column 1 of the following table but is less than that percentage which appears on the same line in column 2 of that table, his or her rate shall be the figure appearing on that same line in column 3:

Reserve balance Line	Col. 1	Col. 2	Contribution rate Col.3
1	-100.0%	No limitation	3.0%
2	-80.0%	-100.0%	2.5%
3	-60.0%	-80.0%	2.0%
4	-40.0%	-60.0%	1.5%
5	-20.0%	-40.0%	1.0%
6 More than	0.0%	-20.0%	0.5%

Section 1027.5 does not apply to reserve balance computations made under this subdivision. Contributions paid pursuant to this subdivision shall be included as employer contributions under Sections 1110 and 1110.1 and for all other purposes under this division. An election to pay contributions pursuant to this subdivision in 1984 or 1985 shall deem any contributions paid for the same year pursuant to subdivision (a) as erroneously collected, and the employer shall be entitled to a credit pursuant to Article 9 (commencing with Section 1176) in the amount of the contributions erroneously collected. No interest shall be charged or payable on credits made under this subdivision.

Within 90 days of the effective date of this subdivision, the director shall provide a copy and explanation of this amended section to all employers who, on or after January 1, 1983, had in effect a work-sharing unemployment insurance plan and are subject to contributions pursuant to this section. Employers who elect the method of payment authorized by this subdivision shall do so within 90 days of receipt of this notice for 1984 and within 60 days of notice to pay additional contributions under this section for 1985.

This subdivision shall remain operative only until January 1, 1986.

(f) This section shall remain in effect only until December 31, 1989, and on that date is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent unduly burdensome costs to employers who entered into shared-work unemployment insurance agreements, on the basis of the law as it existed prior to the enactment of Chapter 542 of the Statutes of 1983, it is necessary that this bill take effect immediately.

CHAPTER 695

An act to amend Sections 2470, 2473, 2474, 2475.3, 2479, 2480, 2483, 2486, 2488, 2492, 2495, 2497, 2499, and 2499.5 of, to add Sections 2490 and 2497.5 to, and to repeal and add Section 2487 to, the Business and Professions Code, relating to podiatry.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 2470 of the Business and Professions Code is amended to read:

2470. The committee may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations which are necessary to enable the committee to carry into effect the provisions of law relating to the practice of podiatric medicine. All regulations adopted, amended, or repealed by the committee, except those regulations adopted in furtherance of Sections 2496 and 2499.5, shall be subject to the review and approval of the board in accordance with the following procedure:

(a) The committee shall file with the board, and concurrently with the Office of Administrative Law, the notice of proposed adoption, amendment, or repeal of regulations, the express terms of such proposed regulations, and the initial statement of reasons for those regulations. The board may file written testimony regarding any proposed regulations with the committee, and the committee shall file the testimony with the Office of Administrative Law.

(b) After the committee adopts, amends, or repeals regulations as originally made available to the board, the committee shall submit those regulations to the board. The board shall notify the committee of its approval or rejection of the regulations within 30 days of the submittal by the committee. If the board fails to act within 30 days, the regulations shall be deemed approved. The board may act on the regulations at a regularly scheduled meeting or by a review of the written material from the committee. Any action taken after a review of the written material may be taken by a mail vote. The approval of regulations shall require the affirmative vote of a majority of the members then appointed.

(c) In the event the board disapproves a regulation, it shall notify the committee in writing of the basis for its disapproval.

SEC. 2. Section 2473 of the Business and Professions Code is amended to read:

2473. A doctor of podiatric medicine may perform surgical treatment of the ankle, provided that the person is certified by the committee to perform that treatment. The committee shall require licensees who apply for the certification to demonstrate sufficient knowledge of surgical treatment of the ankle and related subject

matter and to provide evidence of staff privileges at a licensed general acute care facility. The committee may accept successful completion of certification examinations administered by the American Board of Podiatric Surgery in lieu of any examination it may require.

SEC. 3. Section 2474 of the Business and Professions Code is amended to read:

2474. Any person who uses in any sign or in any advertisement or otherwise, the word or words "podiatrist," "foot specialist," or any other term or terms or any letters indicating or implying that he or she is a podiatrist, or that he or she practices podiatric medicine, or holds himself out as practicing podiatric medicine or foot correction as defined in Section 2472, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as provided for in this chapter, is guilty of a misdemeanor.

SEC. 4. Section 2475.3 of the Business and Professions Code is amended to read:

2475.3. The examining committee shall approve podiatric residency programs, as defined in Section 2475.2, in the field of podiatric medicine, affiliated with, and under the supervision of, schools of podiatric medicine approved by the examining committee, for persons who are applicants for or have been issued a certificate to the practice of podiatry pursuant to this article.

SEC. 5. Section 2479 of the Business and Professions Code is amended to read:

2479. The board shall issue, upon the recommendation of the committee, a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

SEC. 6. Section 2480 of the Business and Professions Code is amended to read:

2480. The committee shall have full authority to investigate and to evaluate each applicant applying for a certificate to practice podiatric medicine and to make a determination of the admission of the applicant to the examination and the issuance of a certificate in accordance with the provisions and requirements of this chapter.

SEC. 7. Section 2483 of the Business and Professions Code is amended to read:

2483. (a) Each applicant for a certificate to practice podiatric medicine shall show by official transcript or other official evidence satisfactory to the committee that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a college or school of podiatric medicine approved by the committee. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The committee, by regulation, shall adopt standards for

determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction in the following:

Anatomy, including embryology and histology
Bacteriology
Biochemistry
Biomechanics-foot orthopedics
Dermatology
Didactic podiatry
Hygiene
Immunology
Neurology
Orthopedic surgery
Pathology
Pharmacology, including materia medica and toxicology
Physical and laboratory diagnosis
Physical therapy
Physiology
Podiatric medicine
Podiatric surgery
Preventive medicine
Psychology
Roentgenologic technique and radiation safety
Shoe therapy
Syphilology

SEC. 8. Section 2486 of the Business and Professions Code is amended to read:

2486. Notwithstanding any other provision of law, the board shall issue, upon the recommendation of the committee, a certificate to practice podiatric medicine on the basis of a diplomate certificate issued by the National Board of Podiatry Examiners of the United States if the applicant meets the following requirements:

(a) The applicant takes and passes an oral examination administered by the committee in accordance with Section 2148.

(b) The applicant graduated from an approved school or college of podiatric medicine after June 30, 1958.

(c) The standards of the national board on the date the diplomate certificate was issued were in no degree or particular less than those required for a certificate to practice podiatric medicine under this chapter on the same date.

(d) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The committee determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine

which the committee determines constitutes evidence of a pattern of negligence or incompetence.

SEC. 9. Section 2487 of the Business and Professions Code is repealed.

SEC. 10. Section 2487 is added to the Business and Professions Code, to read:

2487. Any applicant for a certificate to practice podiatric medicine who does not qualify for licensure as a diplomate of the National Board of Podiatry Examiners under Section 2486 or as a reciprocity applicant under Section 2488 shall apply for a certificate under the provisions of Section 2479, shall take and pass the examination designated by the committee under Section 2492 and shall take and pass an oral and practical examination to ascertain clinical competence.

SEC. 11. Section 2488 of the Business and Professions Code is amended to read:

2488. Notwithstanding any other provision of law, the board shall issue, upon the recommendation of the committee, a certificate to practice podiatric medicine by reciprocity to an applicant if the following requirements are met:

(a) The applicant is licensed as a podiatrist in any other state whose written licensing examination is recognized by the committee to be the equivalent in content to that administered in this state.

(b) Except for the requirement of postgraduate training, the standards of the other state on the date the license was issued were substantially equivalent to the requirements for the issuance of a certificate under this chapter on the same date.

(c) The applicant has been issued after June 30, 1958, a diplomate certificate by the National Board of Podiatry Examiners of the United States or has passed, after June 30, 1958, a written examination which is recognized by the committee to be the equivalent in content to that administered in this state.

(d) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(e) The applicant takes and passes an oral and practical examination to ascertain clinical competence.

(f) The committee determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine which the committee determines constitute evidence of a pattern of negligence or incompetence.

(g) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

SEC. 12. Section 2490 is added to the Business and Professions Code, to read:

2490. Notwithstanding Section 135, an applicant for a certificate to practice podiatric medicine who fails to pass the oral and practical

examination after two examinations shall not be eligible to be reexamined until at least one year has elapsed from the date of the second failed examination; and an applicant who fails a third examination shall not be eligible to take the examination a fourth time until two years have lapsed from the date of the third examination. Thereafter, the examination may not be taken more frequently than once in two years.

SEC. 13. Section 2492 of the Business and Professions Code is amended to read:

2492. (a) The committee shall examine every applicant for a certificate to practice podiatric medicine at the time and place designated by the committee in its discretion, but at least twice a year.

(b) The committee shall perform all examination functions pertaining to applicants under this article and may participate in uniform examination systems. For that purpose the committee may make such arrangements with organizations furnishing examination material as it may deem desirable. Applicants shall be required to take and pass the examination administered by the National Board of Podiatry Examiners.

(c) The committee may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The committee may fix the compensation of such persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the committee except where such provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the committee.

SEC. 14. Section 2495 of the Business and Professions Code is amended to read:

2495. Notwithstanding any other provision of this chapter, the committee may delegate to officials of the committee the authority to approve the admission of applicants to the examination and to approve the issuance of certificates to practice podiatric medicine to applicants who have met the specific requirements therefor in routine cases where applicants clearly meet the requirements of this chapter.

SEC. 15. Section 2497 of the Business and Professions Code is amended to read:

2497. (a) The committee may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The committee may hear all matters, including but not limited to, any contested case or any petition for reinstatement or

modification of probation, or may assign any such matters to an administrative law judge. Such proceedings shall be held in accordance with Section 2230. If a contested case is heard by the committee itself, the administrative law judge who presided at the hearing shall be present during the committee's consideration of the case and shall assist and advise the committee.

SEC. 16. Section 2497.5 is added to the Business and Professions Code, to read:

2497.5. (a) The committee may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the committee, to direct any licensee found guilty of unprofessional conduct to pay to the committee a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the committee. When the committee does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(c) When the payment directed in the committee's order for payment of costs is not made by the licensee, the committee may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the committee may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the committee's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) All costs recovered under this section shall be deposited in the Podiatry Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the committee may direct.

SEC. 17. Section 2499 of the Business and Professions Code is amended to read:

2499. There is in the State Treasury the Podiatry Fund. Notwithstanding Section 2445, the board shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the committee, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into such fund. On and after July 1, 1981, all revenue received by the committee and the board from fees authorized to be charged relating to the practice of podiatry shall be deposited in such fund as provided in this section, and shall be continuously appropriated to the committee to carry out the provisions of this chapter relating to the regulation of the practice of podiatry.

SEC. 18. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine:

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the committee at an amount not to exceed one hundred fifty dollars ($150). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the committee 30 days prior to the examination date, the sum of twenty dollars ($20) shall be retained and the remainder of the fee is returnable to the applicant. The committee may fix a reexamination fee not to exceed one hundred twenty dollars ($120).

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based upon reciprocity shall pay an application fee of twenty dollars ($20) at the time the application is filed. The committee may fix an oral examination fee at an amount that does not exceed the cost of the examination, but in no event shall it exceed one hundred fifty dollars ($150), which shall be paid by each applicant required to take the examination under Section 2486. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the committee 30 days prior to the examination date, only the examination fee is returnable to the applicant. The committee may charge an examination fee for any subsequent reexamination of the applicant. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the committee at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee. The initial license fee shall be fixed by the committee at a sum not in excess of three hundred dollars ($300), except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the committee. The committee may waive or refund the initial license fee where the license will expire within 45 days after it is issued.

(d) The biennial renewal fee shall be fixed by the committee at an amount not to exceed three hundred dollars ($300). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is twenty-five dollars ($25).

(f) The duplicate wall certificate fee is an amount equal to the cost to the committee for the issuance of the duplicate certificate.

(g) The duplicate renewal receipt fee is ten dollars ($10).

(h) The endorsement fee is ten dollars ($10).

(i) There shall be a fee of twenty-five dollars ($25) for the issuance of a limited license under Section 2475.

(j) The fee for certification under Section 2473 shall be fixed by

the committee at an amount not to exceed two hundred fifty dollars ($250).

CHAPTER 696

An act to amend Section 9 of the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959), and to amend Section 12 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969), relating to special districts.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 9 of the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 9. The board of directors shall be the governing body of the agency. Each board of directors shall hold its first meeting on the last regularly scheduled meeting date in November next following the general agency election, and at the meeting elect from its membership a president, vice president, secretary, and treasurer, and provide for the time and place of holding its meetings and the manner in which its special meetings may be called. The board of directors may consolidate the office of secretary and treasurer. All legislative sessions of the board of directors, whether regular or special, shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business.

SEC. 2. Section 12 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 12. The board of directors shall act only by ordinance, resolution, or motion. On all ordinances, the roll shall be called and the ayes and noes recorded in the journal of the proceedings of the board of directors. Resolutions and orders may be adopted by voice vote, but, on demand of any member, the roll shall be called. No ordinance, motion, or resolution shall be passed or become effective without the affirmative vote of a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be: "Be it ordained by the Board of Directors of the Bighorn Mountains Water Agency as follows:"

Each of the members of the board of directors shall receive for each attendance at the meetings of the board compensation in an amount not to exceed the then current maximum amount which may be received by directors of a county water district organized under Division 12 (commencing with Section 30000) of the Water Code for attendance at meetings of the board of directors. No directors, however, shall receive pay for more than three meetings in any calendar month A director shall be compensated for a meeting of

the board if, at the time of the holding of the meeting, the director is on other business of the district, at the request of the board. Any vacancy in the board of directors shall be filled by a majority of the remaining directors, the person so chosen shall be a resident of, and otherwise qualified to be a director of, the agency and shall hold office for the remainder of the unexpired term.

CHAPTER 697

An act to amend Section 1909 of, and to add Sections 1923 and 1924 to, the Health and Safety Code, relating to rabies control.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 1909 of the Health and Safety Code is amended to read:

1909. Except as provided in Sections 1923 and 1924, every person who possesses or holds any animal in violation of the provisions of this article is guilty of an infraction, punishable by a fine not exceeding one thousand dollars ($1,000).

SEC. 2. Section 1923 is added to the Health and Safety Code, to read:

1923. Any person who willfully conceals information about the location or ownership of an animal subject to rabies, which has bitten or otherwise exposed a person to rabies, with the intent to prevent the quarantine or isolation of that animal by the local health officer is guilty of a misdemeanor.

Any person who violates this section is guilty of a misdemeanor.

SEC. 3. Section 1924 is added to the Health and Safety Code, to read:

1924. Any person who, after notice, violates any order of a local health officer concerning the isolation or quarantine of an animal of a species subject to rabies, which has bitten or otherwise exposed a person to rabies or who, after that order, fails to produce the animal upon demand of the local health officer, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or by fine of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000) per day of violation, or by both fine and imprisonment.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime

or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 698

An act to amend Sections 13570 and 13620 of, to add Section 13413 to, to repeal and add Article 10 (commencing with Section 13500) and Article 12 (commencing with Section 13530) of Chapter 14 of Division 5 of, to repeal and add Chapter 15 (commencing with Section 13700) of Division 5 of, to repeal Section 13476 of, and to repeal Chapter 16 (commencing with Section 13800) and Chapter 17 (commencing with Section 13900) of Division 5 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 13413 is added to the Business and Professions Code, to read:

13413. It is unlawful for any person or other legal entity to make any deceptive, false, or misleading statement by any means whatever regarding quality, quantity, performance, price, discount, or saving used in the sale or selling of any commodity regulated pursuant to this chapter.

SEC. 2. Section 13476 of the Business and Professions Code is repealed.

SEC. 3. Article 10 (commencing with Section 13500) of Chapter 14 of Division 5 of the Business and Professions Code is repealed.

SEC. 4. Article 10 (commencing with Section 13500) is added to Chapter 14 of Division 5 of the Business and Professions Code, to read:

Article 10. Tank Vehicles

13500. (a) It is unlawful for any person to transport in any tank vehicle, for the purpose of sale or for delivery to any place where petroleum products are stored for sale, any petroleum product referred to in this chapter unless there is firmly affixed at each outlet or valve of the tank vehicle, a metal tag, plate, or label. The tag, plate, or label shall display, in letters not less than one-half inch in height, the name and grade of the product in the tank compartment of the tank vehicle. In the case of motor oil, the Society of Automotive Engineers (SAE) viscosity number shall also be displayed on the tag, plate, or label.

(b) If the product is gasoline intended to be sold as unleaded gasoline, the grade designation shall contain a designation of

unleaded.

13501. It is unlawful for any person, when delivering for the purpose of sale, or delivering to any place where petroleum products are kept for sale, to commingle any product with another product or to commingle grades of a product, if as a result of the commingling the product delivered does not meet the specifications adopted or established by the department.

13502. It is unlawful for any person to deliver into a storage tank or container at any place where petroleum products are stored for sale, any product other than the product identified on the label attached to the storage tank or container.

13503. It is unlawful to deliver aviation gasolines to the fuel tank of any aircraft through the same meter used for deliveries of gasolines not specifically refined or manufactured for aviation use.

SEC. 5. Article 12 (commencing with Section 13530) of Chapter 14 of Division 5 of the Business and Professions Code is repealed.

SEC. 6. Article 12 (commencing with Section 13530) is added to Chapter 14 of Division 5 of the Business and Professions Code, to read:

Article 12. Price Sign Advertising

13530. (a) Nothing in this article applies to price indicators and signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the price per gallon or liter for a particular brand and grade of motor fuel permitted or required under Article 8 (commencing with Section 13470) shall, unless otherwise stated, be identical in numerical value with the price per gallon or liter for the same brand and grade of motor fuel permitted or required under this article.

(b) Nothing in this chapter requires that the cash or merchandise value of trading stamps be stated on any advertising media which either advertises the stamps or advertises the price of motor fuel.

(c) Unless otherwise prohibited, any person selling motor fuel by the liter shall be authorized to advertise its price by displaying on the advertising medium either the price per liter or the price per gallon.

13531. (a) Every person offering for sale or selling any motor vehicle fuel to the public from any place of business shall display on the premises an advertising medium which complies with the requirements of this article and which advertises the prices of the three major grades of motor vehicle fuel offered for sale. The advertising medium shall be clearly visible from the street or highway adjacent to the premises. When the place of business is situated at an intersection, the advertising medium shall be clearly visible from each street of the intersection. For the purposes of this subdivision, motor vehicle fuel does not include propane.

(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with

Section 65300) of Chapter 3 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both.

(d) Notwithstanding Section 13590, the district attorney of each county, or pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer, shall, upon complaint or upon his or her own motion, enforce the provisions of this section and, in addition, may bring an action for injunctive relief in accordance with Section 13611.

13532. (a) It is unlawful for any person to display any advertising medium which indicates the price of motor fuel unless the advertising medium displays all of the following:

(1) The price per gallon or liter, including all taxes, in numerals, and fractions when applicable, not less than six inches in height and of uniform size and color. For the purpose of this article, fractions are considered one numeral.

(2) The trademark or brand of the motor fuel in letters, figures, or numerals not less than one-third the size of the numerals designating the price.

(3) The word "gasoline" or the name of other motor fuel in letters not less than one-third the size of the numerals designating the price, but these words need not be more than four inches in height.

(4) The grade designation of the motor fuel in letters or numerals not less than one-sixth the size of the numerals designating the price, but this designation need not be more than four inches in height.

(5) If motor fuel prices are advertised by the liter, the word "liter" shall be displayed on the advertising medium in letters not less than one-third the size of the numerals designating the price.

(b) (1) It is unlawful for any person offering for sale any motor fuel to display any advertising medium with phraseology indicating a discount or reduced price unless there is displayed at the same location an advertising medium which complies with this article and which shows the price or prices per gallon or liter from which the discount or price reduction will be taken and the amount of discount or price reduction per gallon or liter. Words, with letters not less than one-third the size of the price numerals, shall be used to explain the price or prices from which the discount or price reduction is to be taken and the conditions of the discount or price reduction. The

words shall clearly indicate that the discount or price reduction is to be taken from the advertised prices. The height of the numerals indicating the amount of the discount or price reduction shall not exceed the height of the numerals in the advertised price.

(2) Any limitations under which the discount or price reduction is offered shall be explained in words whose letters are not less than one-third the size of the numerals indicating the prices.

(3) There shall be available for each customer's reference, a chart showing the amount of discount for each type unit being sold (gallon/liter) or fraction thereof in one cent ($.01) increments, or the retail dispensers used to dispense fuel at the discount price shall be set to compute the total sale at the discounted price per gallon or liter and shall be clearly labeled "Includes Cash Discount" in letters not less than one inch in height.

(4) For purposes of this subdivision, the motor fuel shall be sold in the same unit of measure (e.g., gallons or liters) in which the discount and the price from which the discount is taken are advertised.

(c) In the event that the same grade of motor fuel is sold at different prices from any single place of business, it is unlawful for any person to display any advertising medium which advertises a price of a grade of motor fuel unless the advertising medium advertises in numerals of equal size each of the higher prices, including all taxes for which the grade is sold or offered for sale, and unless the advertising medium explains the conditions, and any limitations, under which that grade is sold or offered for sale at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices. The different prices at which the same grade of motor fuel is sold or offered for sale shall be advertised in the same unit of measure (either price per gallon or price per liter) as permitted or required by law.

(d) Nothing in this section shall be construed to prohibit any person who has posted or displayed any sign or advertising medium in conformity with the requirements of this chapter from displaying any additional signs or advertising media that state the price of one or more brands or grades of motor fuel sold or offered for sale at the premises, provided that the conditions of the sale of the brand or grade of motor fuel are included in the additional sign or advertising media in letters at least one-third the size of the numerals indicating the prices.

13533. It shall be unlawful for any person to display on or near the premises of any place of business in this state any advertising medium which advertises the price of motor oil offered for sale without conspicuously showing on the same advertising medium the brand of the motor oil and the name of the product. The letters, figures and numerals used to designate the brand and the name of the product shall not be less than one-half the size of the numerals designating the price.

13534. Except as provided in subdivisions (b), (c), and (d) of Section 13532, the advertising medium referred to in this article shall not contain any other advertising matter whatsoever, except (1) words of description of the products sold or offered for sale, (2) the method of sale, such as "self serve," "full serve," or words of similar meaning, (3) words describing the type of additional service offered at the place of business, such as food market, car wash, tuneup, or similar words, but not the price, and (4) the registered trademark or trade name associated with additional service referred to in (3). Any letters, figures, or numerals used on the advertising medium as permitted by (1) shall not be larger than the numerals used to indicate the price. Any letter, figures, or numerals used on the advertising medium as permitted by (2) shall not be less than one-third the size of the numerals used to indicate the price.

13535. If any motor fuel or motor oil is advertised for sale, but not under any brand designation, the words "no brand" shall be used on the advertising medium as a brand designation.

13536. All letters, words, figures, or numerals which are part of the advertising media referred to in this article shall have a heavy type face or stroke, shall be clearly visible, and of a color or tint that will contrast the letters, words, figures, or numerals with the background of the avertising media. The height of the letters, figures, and numerals, except the letter "l" and numeral one, shall not be more than twice the width.

13537. It is unlawful to place any advertising medium on the premises of any place of business in this state in such a manner or in such a position to another advertising medium as will render an advertising medium advertising motor fuel susceptible of being read in conjunction with any other advertising medium, if any person so reading from any public street or highway may be misled.

13538. It is unlawful to place letters, words, figures, or numerals on any advertising medium located or maintained on the premises of any place of business in this state advertising or offering for sale any goods, wares, or merchandise, other than motor fuel, if the advertising medium may be construed by any reasonable person as advertising a price of motor fuel.

13539. It is unlawful for any person to display any sign or other designating mark on or near any place of business of the person describing or designating a brand, trademark, or trade name of any produce which comes under the provisions of this chapter, not actually sold or offered for sale at the place of business.

13540. Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of the ordinances dealing with matters specifically covered in this article are identical to this article.

SEC. 7. Section 13570 of the Business and Professions Code is

amended to read:

13570. Any manufacturer, blender, agent, jobber, consignment agent, or distributor who distributes motor vehicle fuel products which contain at least 1 percent alcohol by volume, shall state on any invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentage of alcohol, the type of alcohol, and, except in documentation certifying the octane rating of gasoline as required by federal law, the minimum antiknock index number, as defined in Section 13403, of the products distributed. This section, as it relates to certification of the minimum antiknock index number, applies to all motor vehicle gasoline distributed.

SEC. 8. Section 13620 of the Business and Professions Code is amended to read:

13620. Any moneys in the Department of Food and Agriculture Fund derived under Chapters 14 (commencing with Section 13400) and 15 (commencing with Section 13700) may be expended for the administration and enforcement of any or all of the provisions of those chapters, notwithstanding any other provision of law limiting the expenditure of any of those moneys to the specific purposes or to the administration or enforcement of each of the chapters separately.

SEC. 9. Chapter 15 (commencing with Section 13700) of Division 5 of the Business and Professions Code is repealed.

SEC. 10. Chapter 15 (commencing with Section 13700) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 15. AUTOMOTIVE PRODUCTS

Article 1. General Provisions

13700. "Labeling" means all written, printed or graphic representations, in any form whatsoever, imprinted upon or affixed to any container or accompanying any product referred to in this chapter.

13701. "Container" means any receptacle in which a commodity is immediately contained when sold, but does not mean a carton or wrapping in which a number of receptacles are shipped or stored or a tank car or truck.

13702. "Antifreeze" means any substance or preparation intended for use as the cooling medium or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

13703. "Coolant" means any substance or preparation intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to raise the boiling point of the cooling liquid or any substance or preparation which is labeled to indicate or imply that it will prevent engine overheating by its use in the cooling system of an internal

combustion engine.

13704. "Brake fluid" means the fluid intended for use as the liquid medium through which force is transmitted in the hydraulic brake system of a vehicle operated upon the highways.

13705. "Automatic transmission fluid" means a product intended for use in a passenger vehicle, other than a bus, as either a lubricant, coolant, or liquid medium in any type of fluid automatic transmission, or any other type of unit through which or by which, force, energy, or power is transferred from a motor vehicle engine by hydraulic means to the driving assembly.

13706. Any product referred to in this chapter is adulterated if its characteristics fall below the specifications for that product established by the department as minimum standards.

13707. Any material offered for sale or sold as an additive to automatic transmission fluids shall be compatible with the automatic transmission fluid to which it is added, and the resulting mixture shall not fall below the minimum specifications for automatic transmission fluids, as established by the department.

13708. Any words and letters required to be displayed on a container by this chapter shall be in legible type.

Article 2. Specifications and Labeling

13710. (a) The department shall establish specifications for antifreeze and coolant which shall promote the public safety in the operation of automotive vehicles. In no event shall the specifications for antifreeze or coolant fall below the minimum specifications, if any, established by the American Society for Testing and Materials.

(b) The department shall establish specifications for automatic transmission fluid which shall promote the public safety in the operation of automotive vehicles. In no event shall the specifications for automatic transmission fluid fall below the minimum specifications, if any, established by the Society of Automotive Engineers for automatic transmission fluid.

(c) The department shall establish specifications for brake fluid which shall promote the public safety in the operation of automotive vehicles. In no event shall the specifications for brake fluid fall below the minimum specifications established by the National Highway Traffic Safety Administration, United States Department of Transportation.

13711. (a) An antifreeze shall be deemed to be mislabeled if any of the following occurs:

(1) Its labeling is false or misleading in any particular.

(2) The package does not bear a label on which is printed the name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure and these facts are not stated plainly and correctly on the outside of the package.

(3) The product is to be diluted with another substance for use

and does not bear on the label, or in an accompanying instruction sheet, folder, or booklet, a statement or chart showing appropriate amounts of each substance in terms of liquid measure to be used to provide protection from freezing at various degrees of temperature down to at least 30 degrees below zero Fahrenheit.

(b) A coolant shall be deemed to be mislabeled if any of the following occurs:

(1) Its labeling is false or misleading in any particular.

(2) The package does not bear a label on which is printed the name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure, and these facts are not stated plainly and correctly on the outside of the package.

(3) The product is to be diluted with another substance for use and does not bear on the label a statement showing that a 50 percent mixture of the coolant and water will raise the boiling point of the mixture to at least 224°F at atmospheric pressure.

(4) The product is to be used full strength and does not bear on the label a statement showing that the product has a boiling point of at least 224°F at atmospheric pressure.

The director may, exempt specific products from paragraph (3) or (4) provided the products meet all other requirements of this subdivision and any regulations pertaining thereto, and provided further that it can be proven to the satisfaction of the director by the person requesting the exemption that the product fulfills the purpose for which it is manufactured, distributed, and sold.

(c) Automatic transmission fluid shall be deemed to be mislabeled if any of the following occurs:

(1) The container does not bear on its side or top a label on which is printed the brand name, the name and place of business of the manufacturer, packer, seller, or distributor, the words "Automatic Transmission Fluid," and the duty type classification.

(2) The container does not bear on its side or top an accurate statement of the quantity of the contents in terms of liquid measure.

(3) The labeling on the container is false or misleading.

(d) Brake fluid is mislabeled if any of the following occurs:

(1) The container does not bear a label which conforms to the requirements of the National Highway Traffic Safety Administration, United States Department of Transportation, and upon which is printed the brand name.

(2) The container does not bear an accurate statement of the quantity of the contents in terms of liquid measure.

(3) The labeling on the container is false or misleading.

13712. A brake fluid receptacle or dispensing device, including "bleeders," pressurized containers, or any container used to fill a brake system or to expel air from the system after servicing, are exempt from the container labeling requirements in this chapter except for designation of the contents as "DOT_____Motor Vehicle Brake Fluid" with the appropriate identification number

filled in. The smallest letter and numeral shall not be less than one-eighth inch in height.

Article 3. Container Requirements

13720. Each brake fluid container with a capacity of six fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

Article 4. Enforcement of the Chapter

13730. The department and each county sealer shall enforce the provisions of this chapter, and may sample, inspect, analyze, and test any product referred to in this chapter manufactured, packed, stored, sold, or distributed within this state. The department, through its agents, has free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of, and may, by legal means, open any box, carton, parcel, or container of, any product referred to in this chapter and take therefrom samples for analysis or for evidence.

13731. The department and each county sealer is authorized to order off-sale any product referred to in this chapter which is adulterated or mislabeled. The off-sale order shall be given in writing to the retail seller and the distributor or manufacturer of the product.

Article 5. Unlawful Acts

13740. It is unlawful to sell or distribute any product referred to in this chapter which is adulterated or mislabeled.

SEC. 11. Chapter 16 (commencing with Section 13800) of Division 5 of the Business and Professions Code is repealed.

SEC. 12. Chapter 17 (commencing with Section 13900) of Division 5 of the Business and Professions Code is repealed.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 699

An act to amend Section 218 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 21, 1984 Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 218 of the Public Utilities Code is amended to read:

218. (a) "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for its own use or the use of its tenants and not for sale to others.

(b) "Electrical corporation" does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or for sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto.

(3) Sale to an electrical corporation or state or local public agency, but not for sale to others, unless the corporation or person is otherwise an electrical corporation.

(c) "Electrical corporation" does not include a corporation or person employing landfill gas technology for the generation of electricity for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or for sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto.

(3) Sale to an electrical corporation or state or local public agency.

CHAPTER 700

An act to amend Sections 21355 and 22100.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 21355 of the Vehicle Code is amended to read:

21355. (a) Stop signs erected under Section 21350, 21351, 21352, or 21354 may be erected either at or near the entrance to an intersection.

The Department of Transportation and local authorities in their respective jurisdictions may erect stop signs at any location so as to control traffic within an intersection.

When a required stop is to apply at the entrance to an intersection from a one-way street with a roadway of 30 feet or more in width, stop signs shall be erected both on the left and the right sides of the one-way street at or near the entrance to the intersection.

Notwithstanding any other provision of this code, stop signs shall not be erected at any entrance to an intersection controlled by official traffic control signals, nor at any railroad grade crossing which is controlled by automatic signals, gates, or other train-actuated control devices except where a stop sign may be necessary to control traffic on intersecting highways adjacent to the grade crossing or when a local authority determines, with the approval of the Public Utilities Commission pursuant to Section 21110, that a railroad grade crossing under its jurisdiction presents a danger warranting a stop sign in addition to a train-activated control device.

(b) Notwithstanding subdivision (a), local authorities, with respect to streets under their jurisdiction, are not required to conform lawfully established intersection configurations existing on January 1, 1985, to meet the requirements of subdivision (a) until January 1, 1990.

SEC. 2. Section 22100.5 of the Vehicle Code is amended to read:

22100.5. No driver shall make a U-turn at an intersection controlled by official traffic signals except as provided in Section 21451, and then only from the far lefthand lane that is lawfully available to traffic moving in the direction of travel from which the turn is commenced. No driver shall make a U-turn at an intersection controlled by official traffic control devices except from the far lefthand lane that is lawfully available to traffic moving in the direction of travel from which the turn is commenced.

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

CHAPTER 701

An act to add Section 65962 to the Government Code, relating to housing development.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 65962 is added to the Government Code, to read:

65962. (a) As used in this section, "local agency" means a city, county, city and county, a school district, and special district.

(b) Any action adopting a fee or charge, or increasing a fee or charge adopted, upon a single family or multifamily development project, as defined in Section 65928, which applies to the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use shall be enacted in accordance with the procedure specified in Sections 54986 and 54922 and shall be effective no sooner than 60 days following the final action on the adoption or increase.

(c) Without following the procedure otherwise required for the adoption of a fee or charge, or increasing a fee or charge, the legislative body of a local agency may adopt an urgency measure as an interim authorization for a fee or charge, or increase in a fee or charge, to protect the public health, welfare and safety. The interim authorization shall require four-fifths vote of the legislative body for adoption. The interim authorization shall have no force or effect 30 days after its adoption. The interim authority shall contain findings describing the current and immediate threat to the public health, welfare and safety. After notice and public hearing pursuant to Sections 54986 and 54922, the legislative body may extend the interim authority for an additional 30 days. Not more than two extentions may be granted. Any extension shall also require a four-fifths vote.

CHAPTER 702

An act to amend Section 830.5 of the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, or deputy probation officer, or a board coordinating parole agent employed by the Youthful Offender Parole Board. Except as otherwise provided in this subdivision, the authority of such parole or probation officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to the escape of any inmate or ward from a state or local institution; (3) to the transportation of such persons; and (4) to violations of any penal provisions of law which are discovered in the course of and arise in connection with his or her employment. A parole officer of the Department of Corrections or the Department of the Youth Authority is authorized to carry firearms but only as determined by the director on a case-by-case or unit-by-unit basis and only under such terms and conditions as are specified by the director. A board coordinating parole agent employed by the Youthful Offender Parole Board shall not carry firearms.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Youth Authority or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections or the Department of the Youth Authority, a correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections. Nothing in this section shall be interpreted to require licensure pursuant to Section 12025. The director of the agency may deny or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing to review, as provided for in the negotiated grievance procedure between the exclusive employee representative and the

Department of Corrections or the Department of the Youth Authority, the director's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer to maintain his or her eligibility to carry firearms off-duty.

SEC. 2. It is the intent of the Legislature in this act to correct an omission which occurred in Chapter 860 of the Statutes of 1979 which inadvertently removed peace officer status from board coordinating parole officers of the Youthful Offender Parole Board.

SEC. 3. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and that there hall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify as soon as possible the peace officer status of those peace officers described in this act it is necessary that this act go into immediate effect.

CHAPTER 703

An act to amend Section 25210.78a of the Government Code, relating to libraries.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 25210.78a of the Government Code is amended to read:

25210.78a. As used in this chapter, "extended library facilities and services" means the payment of salaries and benefits of library

personnel, the acquisition or improvement of sites for library buildings, the construction, alteration, repair, or maintenance of library buildings, or the acquisition, repair or maintenance of furniture or equipment for library buildings, the acquisition, repair, or maintenance of library materials, or all or any combination thereof.

CHAPTER 704

An act to amend Section 77 of the Code of Civil Procedure, relating to courts.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 77 of the Code of Civil Procedure is amended to read:

77. (a) In every county and city and county, there is an appellate department of the superior court consisting of three judges or, when the Chairperson of the Judicial Council finds it necessary, four judges.

(1) In a county with three or fewer judges of the superior court, the appellate department shall consist of those judges, one of whom shall be designated as presiding judge by the Chairperson of the Judicial Council, and an additional judge or judges as designated by the Chairperson of the Judicial Council. Each additional judge shall be a judge of the superior court of another county or a judge retired from the superior court or court of higher jurisdiction in this state.

(2) In a county with four or more judges of the superior court, the appellate department shall consist of judges of that court designated by the Chairperson of the Judicial Council, who shall also designate one of the judges as the presiding judge of the department.

(b) In an appellate department with four judges, no more than three judges shall participate in a hearing or decision. The presiding judge of the department shall designate the three judges who shall participate.

(c) In addition to their other duties, the judges designated as members of the appellate department of the superior court shall serve for the period specified in the order of designation. Whenever a judge is designated to serve in the appellate department of the superior court of a county other than the county in which such judge was elected or appointed as a superior court judge, or if he is retired, in a county other than the county in which he resides, he shall receive from the county to which he is designated his expenses for travel, board, and lodging. If the judge is out of his county overnight or longer, by reason of the designation, such judge shall be paid a per

diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for such purposes to justices of the Supreme Court under the rules of the State Board of Control. In addition, a retired judge shall receive from the state and the county to which he is designated, for the time so served, amounts equal to that which he would have received from each if he had been assigned to the superior court of the county.

(d) The concurrence of two judges of the appellate department of the superior court shall be necessary to render the decision in every case in, and to transact any other business except such as may be done at chambers by the presiding judge of, such department. The presiding judge shall convene such department at such times as may be necessary. He shall also supervise its business and transact such thereof as may be done at chambers.

(e) Every appellate department under this section shall have jurisdiction on appeal from the municipal and justice courts within the county or city and county in all cases in which an appeal may be taken to the superior court as is now or may hereafter be provided by law, except such appeals as require a retrial in the superior court. The powers of each appellate department shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the superior courts.

(f) The Judicial Council may promulgate rules, not inconsistent with law, governing the practice and procedure and the disposition of the business of such appellate departments, or of each class thereof.

CHAPTER 705

An act to amend Section 8010 of, to add Article 7 (commencing with Section 8300) to Chapter 4 of Division 3 of, and to repeal Section 8002 of, the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1984. Filed with Secretary of State August 23, 1984.]

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

SECTION 1. Section 8002 of the Vehicle Code is repealed.

SEC. 2. Section 8010 of the Vehicle Code is amended to read:

8010. (a) Notwithstanding the provisions of this chapter, the commission may establish a pilot program to enter into agreements with other jurisdictions to provide for proportionate registration and licensing that fosters the concept of the International Registration Plan of one license plate and one cab card. Foreign jurisdictions participating in the pilot program may be authorized to collect all appropriate registration and license fees that are due to the State of California, and remit such fees to this state pursuant to the terms of

the agreement. The State of California may collect all appropriate registration and license fees due other jurisdictions participating in the program and forward these fees as specified in the agreement. The authority to issue plates, tabs, permits, or other operating indicia shall be provided for in the agreement.

(b) No pilot program shall be adopted that may result in a loss of revenue as the revenues are now produced under applicable sections of the Vehicle Code and Revenue and Taxation Code and deposited in the Motor Vehicle Account and the Vehicle License Fee Account in the State Transportation Fund.

Before a pilot program is adopted, the commission shall consider the ramifications of the following:

(1) The definition of a fleet.

(2) Base state determination.

(3) Owner or operator and carrier reporting criteria.

(c) The commission shall make every effort to obtain federal funds to finance any implementation and ongoing expenditures of the pilot program that may result.

(d) Agreements with other jurisdictions entered into pursuant to this section shall remain in full force and effect until abrogated by the commission or superseded by an agreement authorized by Article 7 (commencing with Section 8300).

SEC. 3. Article 7 (commencing with Section 8300) is added to Chapter 4 of Division 3 of the Vehicle Code, to read:

Article 7. International Registration Plan and Reciprocal Agreements

8300. Notwithstanding any other provision of law, the Reciprocity Commission may enter into reciprocal agreements on behalf of this state with the duly authorized representatives of any state of the United States, the District of Columbia, a state or province of a foreign country, or a territory or possession of either the United States or of a foreign country, providing for the registration of vehicles on an apportionment or allocation basis.

8301. In exercising this authority, the Reciprocity Commission may, on behalf of the state, enter into, and become, a member of the International Registration Plan developed by the American Association of Motor Vehicle Administrators. The Reciprocity Commission may also adopt and enforce rules and regulations necessary to carry out the provisions of the International Registration Plan or any other agreement entered into under the authority of this article.

8302. For purposes of registration under the International Registration Plan, a fleet consists of one or more apportionable vehicles. For purposes of registration under the International Registration Plan license plates and registration indicia shall be issued by the base state only.

CHAPTER 706

An act to amend Sections 52262 and 58746 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 52262 of the Food and Agricultural Code is amended to read:

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

SEC. 2. Section 58746 of the Food and Agricultural Code is amended to read:

58746. The purposes and provisions of the chapter which relate to marketing orders are applicable to marketing agreements except as follows:

(a) Section 58779, which requires the preparation of an official list of the names and addresses of all producers and the volume of the commodity which was produced or marketed by all the producers in the preceding marketing season and a list of the names and addresses of all handlers and the volume of the commodity which was handled by all the handlers, during the preceding marketing season, is not applicable to marketing agreements.

(b) Sections 58991 to 58998, inclusive, and Sections 59082 to 59086, inclusive, are not applicable to marketing agreements. Prior to the issuance of any marketing agreement, or amendment to it, the director shall, however, find, in addition to the findings which are set forth in Section 58813, that the marketing agreement, or any amendment to it, has been assented to by a sufficient number of signatories that handle a sufficient volume of the commodity which is affected to accomplish the objectives of the agreement or amendment and provide sufficient moneys from assessments levied to defray the necessary expenses of formulation, issuance, administration, and enforcement.

(c) Section 59233 is not applicable to marketing agreements.

CHAPTER 707

An act to amend Section 99313.6 of, and to add Section 99313.1 to, the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 99313.1 is added to the Public Utilities Code, to read:

99313.1. A transportation planning agency, a county transportation commission, or the San Diego Metropolitan Transit Development Board may transfer any funds which it receives pursuant to Section 99313 to another transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board. Any funds transferred pursuant to this section shall be used only for the purposes authorized by this chapter and are subject to all statutes and rules and regulations applicable to funds allocated pursuant to Section 99313.

If one transfer has been completed between a transportation planning agency, a county transportation commission, or the San Diego Metropolitian Transit Development Board, pursuant to this section, no other transfer may be made between the same parties.

In the event of a transfer of funds to the Los Angeles County Transportation Commission pursuant to this section, the amount of that transfer, if any, which exceeds the amount of funds transferred at that time by the Los Angeles County Transportation Commission to the transferring transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, may not be used for the purpose of funding an exclusive public mass transit guideway system project. The Los Angeles County Transportation Commission shall report to the Senate Committee on Transportation and the Assembly Committee on Transportation on the expenditure of any funds received by it pursuant to a transfer made pursuant to this section.

SEC. 2. Section 99313.6 of the Public Utilities Code is amended to read:

99313.6. (a) Except as provided in subdivision (b), each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, shall create a state transit assistance fund and deposit therein the funds allocated it pursuant to Section 99313 for allocations to operators, and to counties and cities for purposes specified in Section 99400, within the area on which its allocation was determined.

(b) From funds allocated to it pursuant to Section 99313, the Los Angeles County Transportation Commission may allocate funds to itself for the planning, design, and contruction of an exclusive public mass transit guideway system.

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

In order to provide flexibility in the use of funds allocated to the transportation planning agencies and county transportation commissions, and the San Diego Metropolitan Transit Development Board, from the Transportation Planning and Development Account in the State Transportation Fund, and to make the Los Angeles County Transportation Commission eligible to receive allocations from the account for the planning, design, and construction of an exclusive public mass transit guideway system, prior to the commencement of the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 708

An act to add Section 66484.3 to the Government Code, relating to bridges and roads, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 66484.3 is added to the Government Code, to read:

66484.3. (*a*) The board of supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing

held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The costs and method of fee apportionment may subsequently be modified to reflect revised cost estimates or actual costs and changes in apportionment due to changes in land use or other factors. Modifications shall be adopted in the same manner as the original resolution. The resolution may provide for automatic periodic adjustment of fees based upon the Consumer Price Index or some other indicator not under control of the governing body, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless

these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the

cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facility or major thoroughfares funds established to finance the construction of the improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares. The sole security for repayment of the indebtedness shall be moneys in planned bridge facility or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 2. The Legislature finds and declares that unique circumstances which exist in the County of Orange dictate the necessity of providing an alternative procedure for that county and the cities within that county, as set forth in Section 1 of this act, and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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

In order that the County of Orange and cities within that county may implement plans for the construction of needed bridges and thoroughfares within developing areas without undue delay, it is essential that this act go into effect immediately.

CHAPTER 709

An act to add Section 1768.8 to the Welfare and Institutions Code, relating to assault and battery.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 1768.8 is added to the Welfare and Institutions Code, to read:

1768.8. (a) An assault or battery by any person confined in an institution under the jurisdiction of the Youth Authority upon the person of any individual who is not confined therein shall be punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both a fine and imprisonment.

(b) An assault or battery by any person confined in an institution under the jurisdiction of the Youth Authority upon the person of any individual who is not confined therein, which inflicts serious injury upon the victim, is punishable by imprisonment in the state prison, or in the county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both a fine and imprisonment.

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

CHAPTER 710

An act to amend Section 2982 of the Civil Code, relating to consumer loans.

[Approved by Governor August 23, 1984 Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent

applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) Taxes imposed on the sale.

(D) The amount charged for a service contract.

(E) The total cash price, which is the sum of subparagraphs (A) to (D), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as therein expressly provided.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment

schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you

default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice, in at least 8-point bold type if the contract is printed, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) The dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), 1 ⅙ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900), ⅚ of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed one thousand six hundred fifty dollars ($1,650), and 13/24 of 1 percent on that portion of the unpaid balance which exceeds one thousand six hundred fifty dollars ($1,650), or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing

between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) When a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire

indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in

satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that such fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

CHAPTER 711

An act to amend Section 11005.6 of, and to add Section 30462.1 to, the Revenue and Taxation Code, and to add Section 38241 to the Vehicle Code, relating to revenues.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 11005.6 of the Revenue and Taxation Code is amended to read:

11005.6. Any city, county or city and county may apply to the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the city, county or city and county, the Department of Finance shall file a certified copy thereof with the department and the Controller. Such a certification may be made once each calendar year.

All payments under Section 11005 of the Revenue and Taxation Code for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until such time as a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him

at the request of the city, city and county, or county for which the census or estimate was made and shall become effective on the first day of the month following receipt of such certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city, county or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to the provisions of Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section if a written request for certification to the Controller is received from the city or city and county or county within 45 days of completion of the estimate.

SEC. 2. Section 30462.1 is added to the Revenue and Taxation Code, to read:

30462.1. Any city may apply to the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the city, the Department of Finance shall file a certified copy thereof with the department and the Controller. This certification may be made once each calendar year.

All payments under subparagraph (B) of paragraph (3) of subdivision (b) of Section 30462 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until such time as a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the city for which the census or estimate was made and shall become effective on the first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to Section 2227 may be used for all purposes of this section if a written request for certification to the Controller is received from the city within 45 days of completion of the estimate.

SEC. 3. Section 38241 is added to the Vehicle Code, to read:

38241. Any city, county or city and county may apply to the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the city, county or city and county, the Department of Finance shall file a certified copy thereof with the department and the Controller. This certification may be made once each calendar year.

All payments under Section 38240 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until such time as a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the city, city and county, or county for which the census or estimate was made and shall become effective on the first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city, county or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section if a written request for certification to the Controller is received from the city or city and county or county within 45 days of completion of the estimate.

CHAPTER 712

An act to add Section 766.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 766.5 is added to the Public Utilities Code, to read:

766.5. The commission shall investigate the practices of every telephone corporation in billing its subscribers for telephone calls, including, but not limited to, whether a corporation is unable to determine whether any telephone call was not completed and as a

consequence may charge the subscriber for that uncompleted call. If the commission finds that any corporation does not have the capability of determining in every instance whether a call placed by a subscriber was completed, the commission shall require the corporation to furnish written notice, in a form and manner approved by the commission, to its subscribers of its billing practices, including, but not limited to, its practice of charging for calls placed but not completed.

SEC. 2. The Public Utilities Commission shall institute an investigation into the liability of a telephone corporation for charges for telephone calls not completed or service not rendered when the completion of the calls or the rendering of the service requires connection with the telephone line of another telephone corporation. Every telephone corporation shall give notice of the commission's decision therein to its subscribers, as may be directed by the commission.

CHAPTER 713

An act to amend Sections 55601.7 and 55601.8 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 55601.7 of the Food and Agricultural Code is amended to read:

55601.7. Notwithstanding Section 55461, every processor who handles freestone peaches for freezing and drying in California shall furnish to the director, on or before December 10 of each year, and every processor who handles walnuts, raisins, or prunes in California annually shall furnish to the director, on or before August 31 of each year, on forms provided by the director, the reporting information specified below showing the number of tons purchased by the processor in that marketing season. In the report, the tonnage shall be broken down by at least major varieties and weighted average price paid for the tonnage acquired (including any bonuses or allowances) and may contain other information required by the director, including, but not limited to, the following:

(a) For walnuts, including inshell acquisitions and shelling stock acquisitions, the color, size, percentage of edible yield, and percentage of offgrade.

(b) For raisins, the percentage of mold, moisture content, sand, offgrade, or micro-organisms on offgrade acquisitions.

(c) For prunes, by size and percentage offgrade.

(d) For freestone peaches, by type of utilization on a fresh weight basis and percentage of offgrade.

The above reporting shall be on a statewide basis.

SEC. 2. Section 55601.8 of the Food and Agricultural Code is amended to read:

55601.8. (a) The director shall not release, or otherwise make available, any information furnished by a cooperative or an individual processor under Section 55601.7 or this section, including information relating to the weighted average prices paid, except in proceedings brought against the processor by the director for the purpose of enforcing this section.

(b) The director shall enforce the collection of the information required in Section 55601.7 and shall, on or before January 15, publish a summary report for freestone peaches used for freezing and drying and shall, on or before October 20, publish a summary report for walnuts, raisins, and prunes, reflecting the statistics derived from the processor reports. The summary reports shall include summaries of all information required to be furnished to the director.

(c) The director may dispense with the reporting requirements and his or her duties to enforce the collection of this information and the publishing of summary reports if the director determines that the same or similar information is made public information within the same time periods of subdivision (b) by any federal or state committee or organization responsible for regulating the handling of any of the commodities subject to this section.

(d) To provide funds to carry out Section 55601.7 and this section, each processor, including agricultural cooperatives, subject to these reporting requirements shall pay to the director the amount determined by the director to be necessary to cover these costs, but not to exceed twelve cents ($0.12) per fresh ton for freestone peaches, twelve cents ($0.12) per dry ton for raisins and prunes, and twelve cents ($0.12) per inshell dry ton for walnuts handled by the processor during each marketing season. The amount of the fee for freestone peaches used for freezing and drying shall be paid to the director on or before December 10 for all freestone peaches used for freezing and drying received from April 1 through November 30. The amount of the fee for any freestone peaches used for freezing and drying received from December 1 through March 31 shall be paid to the director on or before May 1 of the next marketing season. The amount of the fee shall be paid to the director on or before May 1 of each year for all other commodities received from September 1 through March 31. The amount of the fee for any other commodity received from April 1 through August 31 shall be paid to the director on or before September 1 of the next marketing season.

The director may fix the fee at a lesser amount and may adjust the fee from marketing season to marketing season. Any processor who fails, neglects, or refuses to pay the required fee is in violation of this chapter as provided for in subdivision (i) of Section 55601.5. Any such processor shall not pass the penalty onto the producer of the

commodity.

All funds received under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

(e) If the director finds that any processor has failed, refused, or neglected to provide the information required by this section, the director may proceed in accordance with Sections 55721 and 55722.

(f) Any cooperative subject to the reporting provisions of this section shall, in lieu of reporting prices, report all advances and other payments made as of the reporting date and its good faith estimate of the market value of the commodity for the crop year.

(g) The willful failure of any processor to report to the director, as required by this section, is a violation of this chapter and is a separate and distinct violation of this chapter for each day the processor fails to meet the reporting requirements.

(h) For the purpose of Section 55601.7 and this section, "marketing season" means the crop year that runs from September 1 through August 31 for walnuts, raisins, and prunes, and the crop year that runs from April 1 through March 31 for freestone peaches.

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

CHAPTER 714

An act to amend and renumber Section 11105.2 of the Penal Code, relating to criminal records.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984]

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

SECTION 1. Section 11105.2 of the Penal Code is amended and renumbered to read:

11105.3. (a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime if such offense would have been a crime under one of the above sections if committed in California.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has three or more misdemeanor convictions within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has three or more misdemeanor convictions within the 10-year period.

CHAPTER 715

An act relating to tide and submerged lands granted in trust to the County of Orange and to the City of Newport Beach.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) By Chapter 526 of the Statutes of 1919, as amended by Chapter 415 of the Statutes of 1975, the Legislature conveyed certain tide and submerged lands to the County of Orange bordering upon and under Newport Bay which were outside of the corporate limits of the City of Newport Beach, a municipal corporation, on July 25, 1919, the same to be forever held by the county and by its successors in trust for the purposes therein stated, primarily for the promotion and accommodation of commerce and navigation.

(b) Certain portions of those tide and submerged lands surrounding Harbor Island, an island developed with private residences, have been filled and reclaimed as a result of either natural or artificial occurrences and have been improved with landscaping and other yard improvements. These lands are described in Section 3 and are hereafter referred to in this act as county Harbor Island tidelands.

(c) The county Harbor Island tidelands, having been filled and reclaimed, are no longer submerged or below the mean high tide line, are generally inaccessible to the public, and, in their present condition, are not suitable for public trust uses.

(d) In recognition of the facts set forth in subdivisions (b) and (c), and in view of the amount of public trust land remaining in Newport Bay that is suitable for public trust use, the county Harbor Island tidelands have been leased to the owners of adjacent upland residences on a short-term basis. These lands are producing income to support the statutory trusts under which the tide and submerged lands granted to the county are held and, except for the production of income to support the statutory trusts, are not presently required or needed for use by the public.

SEC. 2. (a) The county, or its successors, may allow the county Harbor Island tidelands to continue to be used for those purposes set forth in the existing leases of those lands by leasing anew the lands or any part thereof for the purposes set forth in the existing leases for a period of 49 years or less. During the term of the leases, the lands shall be considered excess to public trust needs in the area, and the public trust easement shall not be exercised on the leased land.

(b) The consideration to be received by the county for leases of county Harbor Island tidelands shall be the fair market rental value of the lands, taking into account the added value to the adjacent

uplands provided by the acreage, usage, and littoral location of the tidelands, as well as the benefits of their exclusive use by the adjacent upland owner. The form of the leases and the range of consideration to be received by the county shall be approved by the State Lands Commission prior to the issuance of any lease.

(c) All money received by the county from existing and future leases of county Harbor Island tidelands shall be deposited in a county tideland trust fund established pursuant to subdivision (k) of Section 1 of Chapter 526 of the Statutes of 1919, and shall be available for expenditure in accordance with subdivision (*l*) of Section 1 of that act for the purposes set forth in that act, including the enhancement of the Upper Newport Bay Ecological Reserve.

SEC. 3. The county Harbor Island tidelands referred to in this act are described as follows:

That portion of the public tide and submerged lands granted to and held in trust by the County of Orange pursuant to Chapter 526 of the Statutes of 1919, as amended, lying above the present line of mean high water within the area bounded by the adjudicated line of ordinary high tide surrounding all of Tract No. 802 in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 24, Page 7 of Miscellaneous Maps, in the Office of the County Recorder of the county; as established by the Judgment in Case No. 23690, Superior Court, County of Orange, State of California, as recorded in Book 22, Page 332 of Judgments on July 2, 1928, and approved by the Legislature pursuant to Chapter 142 of the Statutes of 1929; and bounded seaward by the limit of the United States Bulkhead line as approved by the Department of the Army, Office of the Chief of Engineers on February 15, 1951; those limit lines having been established between the following station points:

BEGINNING at the most easterly point of the land described in the above mentioned Case No. 23690; that Station being No. 142 of the United States Government Bulkhead above mentioned; THENCE Westerly to Station No. 143; THENCE Northwesterly to Station No. 144; THENCE Northwesterly to Station No. 145; THENCE Northerly to Station No. 138; THENCE Easterly to Station No. 139; THENCE Southeasterly to Station No. 140; THENCE Southeasterly to Station No. 141; THENCE Southwesterly (at right angles to the line between Station No. 140 and 141) to the point of beginning. That point being Station No. 142 of the United States Government Bulkhead Line.

SEC. 4. The Legislature finds and declares as follows:

(a) In Section 1 of Chapter 74 of the Statutes of 1978, the Legislature conveyed certain tide and submerged lands in trust to the City of Newport Beach that were within the boundaries of the city on July 25, 1919, for the purposes therein stated, primarily for the promotion and accommodation of commerce and navigation.

(b) Certain portions of those tide and submerged lands surrounding Harbor Island, an island developed with private residences, have been filled and reclaimed as a result of either

natural or artificial occurrences and have been improved with landscaping and other yard improvements. These lands are described in Section 6 and are hereafter referred to in this act as city Harbor Island tidelands.

(c) The city Harbor Island tidelands, having been filled and reclaimed, are no longer submerged or below the mean high tide line, are generally inaccessible to the public, and in their present condition are not suitable for public trust uses. In view of these facts, the amount of public trust land remaining in Newport Bay that is suitable for public trust use, and the small amount of acreage comprising the city Harbor Island tidelands, it is determined that the city Harbor Island tidelands are not presently required or needed for use by the public.

SEC. 5. (a) The city, or its successors, may allow the city Harbor Island tidelands to continue to be used for nonpermanent recreational and landscaping uses by leasing those lands or any part thereof for a period of 49 years or less for the purposes set forth in the existing leases between the Harbor Island homeowners and the County of Orange. During the term of the leases, the land shall be considered excess to public trust needs in the area, and the public trust easement shall not be exercised on the leased land.

(b) The consideration to be received by the city for leases of city Harbor Island tidelands shall be the fair market rental value of the lands taking into account the added value to the adjacent uplands provided by the acreage, usage, and littoral location of the tidelands, as well as the benefits of their exclusive use by the adjacent upland owner. The form of the leases and the range of consideration to be received by the city shall be approved by the State Lands Commission prior to the issuance of any lease.

(c) All money received by the city from leases of city Harbor Island tidelands shall be deposited in a city tideland trust fund established pursuant to subdivision (i) of Section 1 of Chapter 74 of the Statutes of 1978 and shall be available for expenditure in accordance with subdivision (j) of Section 1 of that act. For purposes of this section, the expenditure of trust funds to enhance the Upper Newport Bay Ecological Reserve shall be deemed to be in futherance of the purposes of the trust created by Chapter 74 of the Statutes of 1978.

SEC. 6. The city Harbor Island tidelands referred to in this act are described as follows:

That portion of the public tide and submerged lands granted to and held in trust by the City of Newport Beach pursuant to Chapter 74 of the Statutes of 1978, lying above the present line of mean high water within the area bounded by the adjudicated line of ordinary high tide surrounding all of Tract No. 802 in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 24, Page 7 of Miscellaneous Maps, in the Office of the County Recorder of the county; as established by the Judgment in Case No. 23690, Superior Court, County of Orange, State of California as

recorded in Book 22, Page 332 of Judgments on July 2, 1928, and approved by the Legislature pursuant to Chapter 142 of the Statutes of 1929; and bounded seaward by the limit of the United States Bulkhead line as approved by the Department of the Army, Office of the Chief of Engineers on February 15, 1951; those limit lines having been established between the following station points:

BEGINNING at the most easterly point of the land described in the above mentioned Case No. 23690; that Station being No. 142 of United States Government Bulkhead above mentioned; THENCE Westerly to Station No. 143; THENCE Northwesterly to Station No. 144; THENCE Northwesterly to Station No. 145; THENCE Northerly to Station No. 138; THENCE Easterly to Station No. 139; THENCE southeasterly to Station No. 140; THENCE Southeasterly to Station No. 141; THENCE Southwesterly (at right angles to the line between Station No. 140 and 141) to the point of beginning. That point being Station No. 142 of the United States Government Bulkhead Line.

CHAPTER 716

An act relating to real estate education, and making an appropriation therefor.

[Approved by Governor August 23, 1984 Filed with Secretary of State August 24, 1984.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) That the Real Estate Education and Research Account in the Real Estate Fund was established by statute (see Section 10451.5 of the Business and Professions Code) for the advancement of education and research in real estate at the University of California and other institutions.

(b) That by Item 167 of the Budget Act of 1972 (Chapter 156, Statutes of 1972), five hundred thousand dollars ($500,000) was appropriated to the University of California from the predecessor fund of the Real Estate Education and Research Account, to endow two professorial chairs in real estate and land economics at the Real Estate Research Centers at the University of California campuses at Berkeley and Los Angeles.

(c) That the chairs contemplated by the 1972 appropriation have not been filled, but the endowment for that purpose remains intact together with some of the income from it.

(d) That the original purposes of the endowment remain valid: to attract and retain high caliber faculty to the Real Estate Research centers which provide educational and research resources in this field for the University of California, other educational institutions,

the student body, the real estate and associated industries, and the public; but that moneys provided by the appropriation of 1972 are inadequate for its purposes and should be supplemented.

(e) That the purposes of the endowment is among the purposes for which the Real Estate Education and Research Account was created, and that funds are available in that account to supplement the 1972 endowment.

(f) That the provision of funds to the University of California should be contingent on establishment of, and filling the chairs, to ensure that the purposes for the appropriation are fulfilled.

SEC. 2. The sum of three hundred sixty-seven thousand dollars ($367,000) is hereby appropriated from the Education and Research Account in the Real Estate Fund to the Department of Real Estate for an endowment of three hundred sixty-seven thousand dollars ($367,000) to the Regents of the University of California for the establishment of professorships or chairs in real estate and land economics at the University of California at Berkeley and the University of California at Los Angeles.

This endowment shall be for the purpose of supplementing the five hundred thousand dollars ($500,000) endowment by the Department of Real Estate to the Regents of the University of California pursuant to the Budget Act of 1972.

The Real Estate Commissioner shall specify the conditions governing this endowment, including arrangements satisfactory to the commissioner to assure that funds constituting the endowment are not released to the Regents of the University of California for a chair until the University of California has appointed a person to fill the chair.

CHAPTER 717

An act to amend Sections 12755, 12784, 12802, 12811, 12815, 12816, 12817, 12818, 12819, 12821, 12827, 12882, and 12993 of, and to amend the heading of Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 12755 of the Food and Agricultural Code is amended to read:

12755. "Registrant" means a person that has registered an economic poison and has obtained a certificate of registration from the department.

SEC. 2. Section 12784 of the Food and Agricultural Code is

amended to read:

12784. Any money which is received by the director pursuant to this chapter shall be paid into the State Treasury to the credit of the Department of Food and Agriculture Fund. Registration fees and assessments received pursuant to this chapter shall be expended only for the administration and enforcement of Chapters 2 (commencing with Section 12751), 3 (commencing with Section 14001), and 3.5 (commencing with Section 14101) of Division 7.

SEC. 3. Section 12802 of the Food and Agricultural Code is amended to read:

12802. A person may mix or dilute any registered economic poison in accordance with its registered labeling for his or her own use or for use in his or her own business without having become a registrant pursuant to this chapter.

SEC. 4. The heading of Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code is amended to read:

Article 4. Registration

SEC. 5. Section 12811 of the Food and Agricultural Code is amended to read:

12811. Every manufacturer of, importer of, or dealer in any economic poison, except a person that sells any raw material to a manufacturer of any economic poison or a dealer or agent that sells any economic poison which has been registered by the manufacturer or wholesaler, shall obtain a certificate of registration from the department before the economic poison is offered for sale.

SEC. 6. Section 12815 of the Food and Agricultural Code is amended to read:

12815. If a manufacturer, importer, or dealer in economic poisons that applies for registration of economic poisons has complied with this chapter and the regulations which are adopted pursuant to it, the director shall register each economic poison that is sought to be registered and issue a certificate of registration to the applicant which authorizes the manufacture and sale of the economic poison in this state.

SEC. 7. Section 12816 of the Food and Agricultural Code is amended to read:

12816. If the director finds that registration cannot be permitted due to noncompliance with this chapter or the regulations which are adopted pursuant to it, he or she may, after reasonable notice, call a hearing for the purpose of determining whether the application shall be reconsidered or denied.

SEC. 8. Section 12817 of the Food and Agricultural Code is amended to read:

12817. Every registration expires on December 31st of each year except when renewal is applied for within one month thereafter in the manner which is provided for registration.

SEC. 9. Section 12818 of the Food and Agricultural Code is amended to read:

12818. If renewal is not applied for within one calendar month after the expiration of a registration, there shall be added to the fee a penalty of five dollars ($5) and an additional penalty of 10 percent of the original amount due, for each succeeding calendar month. The total penalty shall not, however, exceed 50 percent of the original amount due.

SEC. 10. Section 12819 of the Food and Agricultural Code is amended to read:

12819. A penalty shall not be collected if the person that makes application for renewal of registration makes an affidavit that no business was done during the period of nonregistration.

SEC. 11. Section 12821 of the Food and Agricultural Code is amended to read:

12821. Each applicant for a certificate of registration shall also file a statement of every brand, trademark, and kind of economic poison which the applicant intends to manufacture or sell, the correct name and percentage of each active ingredient in it, and the total percentage of inert ingredients which are contained in it. The director, whenever he or she deems it necessary for the effective administration of this chapter, may require the submission of the complete formula for the economic poison.

SEC. 12. Section 12827 of the Food and Agricultural Code is amended to read:

12827. The director may cancel a certificate of registration, or, refuse to issue certification to any manufacturer, importer, or dealer in any economic poison that repeatedly violates any of the provisions of this chapter or the regulations of the director.

The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all the powers which are granted therein.

SEC. 13. Section 12882 of the Food and Agricultural Code is amended to read:

12882. An economic poison is also misbranded in any of the following cases:

(a) The contents of the package as originally put up have been removed in whole or in part and other contents placed in the package.

(b) The contents of the package are of a quality below that of the guarantee on the label, on the application for registration of the economic poison, or of the analysis of the representative sample delivered in connection with the application for registration of the economic poison.

(c) If the contents of any package of an economic poison is stated in terms of weight or measure, and the weight or measure is not plainly and correctly stated on the outside of the package.

(d) The label does not conform to the registered label approved

by the director under the standards of this division.

SEC. 14. Section 12993 of the Food and Agricultural Code is amended to read:

12993. It is unlawful for any person to manufacture, deliver, or sell any economic poison or any substance or mixture of substances that is represented to be an economic poison, or to retail any formula for an economic poison in conjunction with the sale or gift of materials which are represented to be the essential ingredients necessary to constitute an economic poison, which is not registered pursuant to this chapter. This section, however, does not apply to any economic poison product of a registrant, which is manufactured solely for export outside this state and which is so exported.

CHAPTER 718

An act to amend Sections 75591, 75592, and 75594 of the Water Code, relating to water conservation districts.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984]

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

SECTION 1. Section 75591 of the Water Code is amended to read:

75591. If the board determines that a zone or zones should be established and a ground water charge levied therein, it shall establish the zone or zones and levy, assess, and affix the charge against all persons operating ground water-producing facilities within the zone or zones during the ensuing water year. However, the board may waive any minimal charge, the collection of which is determined by the board not to result in net economic benefit to the district.

SEC. 2. Section 75592 of the Water Code is amended to read:

75592. The charge shall be computed at a fixed and uniform rate per acre-foot for agricultural water, and at a fixed and uniform rate per acre-foot for all water other than agricultural water. However, a different fixed and uniform rate per acre-foot may be used to compute the charge for all water other than agricultural water used for irrigation purposes on parks, golf courses, schools, cemeteries, and publicly owned historical sites.

SEC. 3. Section 75594 of the Water Code is amended to read:

75594. Except as provided in Section 75595, any ground water charge in any year shall be established at a fixed and uniform rate for each acre-foot for water other than agricultural water which is not less than three times nor more than five times the fixed and uniform rate established for agricultural water. However, any groundwater charge in any year for water other than agricultural water used for

irrigation purposes on parks, golf courses, schools, cemeteries, and publicly owned historical sites may be established at a fixed and uniform rate for each acre-foot which shall not be less than the rate established for agricultural water, nor more than the rate established for all water other than agricultural water.

CHAPTER 719

An act to add Section 25180.5 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 25180.5 is added to the Health and Safety Code, to read:

25180.5. (a) The department, the State Water Resources Control Board, and the California regional water quality control boards shall notify the local health officer and director of environmental health of a county, city, or district, as specified in subdivision (b), within 15 days after any of the following occur:

(1) The department's or board's employees are informed or discover that a disposal of hazardous waste has occurred within that county, city, or district and that the disposal violates a state or local law, ordinance, regulation, rule, license, or permit or that the disposal is potentially hazardous to the public health or the environment.

(2) The department or board proposes to issue an abatement order or a cease and desist order, to file a civil or criminal action, or to settle a civil or criminal action, concerning a disposal of hazardous waste within that county, city, or district.

(b) The notice given by the department or board pursuant to subdivision (a) shall include all test results and any relevant information which the department or board has obtained and which do not contain trade secrets, as defined by Section 25173, as determined by the department or board. If the department or board determines that the test results or information cannot be disseminated because of current or potential litigation, the department or board shall inform the local health officer and director of environmental health that the test results and information shall be used by the local health officer and the director of environmental health only in connection with their statutory responsibilities and shall not otherwise be released to the public.

CHAPTER 720

An act to amend Sections 73704 and 73714 of, and to add Section 73717 to the Government Code, relating to courts.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 73704 of the Government Code is amended to read:

73704. There shall be one clerk who shall be the administrative officer of the court and receive the salary specified in Section 73710. The clerk shall serve at the pleasure of the judges.

SEC. 2. Section 73714 of the Government Code is amended to read:

73714. Notwithstanding any other provision of law, the provisions of the county ordinance relating to civil service and the rules of the county civil service commission adopted pursuant thereto, shall apply to all employees, except the marshal, and the clerk, in the same manner and to the extent as applicable generally to officers and employees of the County of San Joaquin.

Such employees shall be entitled to the same vacation, sick leave, and other employee benefits, including uniform allowance for deputy marshals and clerical employees in the marshal's office who regularly perform matron duties, and may be appointed, promoted, demoted, terminated, or transferred, or their status otherwise adjusted in the same manner and with the same effect as is or may be provided by the current salary ordinance of the County of San Joaquin, or the civil service ordinance of the County of San Joaquin for the employees of the county.

SEC. 3. Section 73717 is added to the Government Code, to read:

73717. Notwithstanding Section 72400, the presiding judge of the court may also appoint the clerk to serve as traffic referee without additional compensation, if the clerk used to be a judge of a superseded justice court within San Joaquin County.

CHAPTER 721

An act to add Section 71.5 to the Harbors and Navigation Code, relating to boating and waterways.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 71.5 is added to the Harbors and Navigation Code, to read:

71.5. (a) The department shall encourage cities, counties, and districts that propose to apply for initial loan funding for new small craft harbor development projects pursuant to Section 71.4 to communicate and to work with private enterprise in order to determine if private business could construct and operate the projects' revenue producing facilities under fair and reasonable terms.

(b) No loan shall be made for the initial phase of new small craft harbor projects pursuant to Section 71.4 for those project facilities that produce revenues, unless the city, county, or district applying for the loan has held a public hearing on the feasibility of a private concessionaire or lessee constructing and operating the proposed project under a contract with the applicable public agency.

(c) Notice of a hearing held pursuant to subdivision (b) shall be published in accordance with Section 6066 of the Government Code and in two publications of general circulation of special interest to the recreational boating community.

CHAPTER 722

An act to amend Section 40300.5 of the Vehicle Code, relating to traffic offenses.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 40300.5 of the Vehicle Code is amended to read:

40300.5. Notwithstanding any other provision of law, a peace officer may, without a warrant, arrest a person who is (1) involved in a traffic accident or (2) observed by the peace officer in or about a vehicle which is obstructing a roadway, when the officer has reasonable cause to believe that the person had been driving while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug.

SEC. 2. The Legislature finds and declares that driving while under the influence of alcohol or drugs continues to pose a substantial danger to public health and safety, injuring over 65,000 people per year and killing an additional 2,400. Given the severity of the conduct involved, the exception in Section 40300.5 of the Vehicle Code from the general requirements of Section 836 of the Penal Code should be expanded to cover other instances in which the

officer has reasonable cause to believe that the person to be arrested had been driving while under the influence of alcohol, drugs, or both.

CHAPTER 723

An act to amend Sections 8377 and 8377.5 of, and to add Section 8377.7 to, the Fish and Game Code, and to repeal Section 3 of Chapter 691 of the Statutes of 1981, relating to fish.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 8377 of the Fish and Game Code is amended to read:

8377. (a) No Pacific bonito less than 24 inches fork length or five pounds in weight may be taken or possessed on any vessel at any time for any commercial purpose, except (1) a load of bonito taken on a vessel by the use of round haul nets may contain 18 percent or less by number of bonito smaller than the minimum size, and (2) a load of fish taken on a vessel by the use of gill nets or trammel nets may contain 1,000 pounds or less of bonito smaller than the minimum size per trip. Pacific bonito smaller than the minimum size, incidentally taken, may be used for any purpose.

(b) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 2. Section 8377.5 of the Fish and Game Code is amended to read:

8377.5. Pacific bonito shall be measured from the tip of the lower jaw to the center of the fork of the tail fin.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 3. Section 8377.7 is added to the Fish and Game Code, to read:

8377.7. Sections 8377 and 8377.5 shall not become operative until, and shall remain operative only so long as, the director finds and certifies to the Secretary of State that regulations adopted by the commission are in effect that establish the maximum number of Pacific bonito of less than 24 inches fork length or less than five pounds in weight that may be taken for other than commercial purposes and that the restrictions imposed by the commission provide the same protection to the fishery resource as is provided in subdivision (a) of Section 8377. Also, Sections 8377 and 8377.5 shall remain operative only so long as the allowable daily sport bag limit of Pacific bonito does not exceed the bag limit which was in effect

on March 1, 1981.

SEC. 4. Section 3 of Chapter 691 of the Statutes of 1981 is repealed.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 724

An act to amend Section 1798.24 of the Civil Code, relating to records.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 1798.24 of the Civil Code, as amended by Chapter 2 of the Statutes of 1984, is amended to read:

1798.24. No agency may disclose any personal or confidential information unless the disclosure of such information is:

(a) To the individual to whom the record pertains as set forth in Section 1798.34.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit specified by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees, attorneys, or volunteers of the agency which has custody of the information if such disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and such use is compatible with a purpose for which the information was collected and such use or transfer is listed in the notice provided pursuant to Section 1798.9 or accounted for in

accordance with the provisions of Section 1798.25.

(f) To a governmental entity when required by state or federal law.

(g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(h) To a person who has provided the agency with advance adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency which maintains information that compelling circumstances exist which affect the health or safety of an individual, if upon such disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal law.

(j) To the State Archives of the State of California as a record which has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his or her designee to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify such individual to whom the record pertains, and if such notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement agency when required for an investigation of unlawful activity, unless such disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from such person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law which the agency is responsible for enforcing.

(q) Personal information only to the Office of Information Practices when the transfer is necessary for that office to investigate a complaint it has received regarding an alleged violation of any provision of this chapter or to perform its mediation functions, provided that the Office of Information Practices has received the written voluntary consent of the individual to whom the information pertains for such a transfer.

(r) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents,

provided that such information does not include or reveal the identity of the natural parents.

(s) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's natural parents. However the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision by July 1, 1985. The regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

(t) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the member, where such member has permission to obtain the information from the individual to whom it pertains or where the member provides reasonable assurance that he or she is acting in behalf of the individual.

(u) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information includes assurances of the need for personal or confidential information, procedures for protecting the confidentiality of the information and assurances that the personal identity of the subject shall not be further disclosed in individually identifiable form.

(v) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

The provisions of this article shall not be construed to require the disclosure of confidential information to the individual to whom the information pertains when that information may otherwise be withheld as set forth in Section 1798.42.

CHAPTER 725

An act to add Article 5.5 (commencing with Section 30650) to Chapter 5 of Part 3 of Division 10 of the Public Utilities Code, relating to the Southern California Rapid Transit District.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Article 5.5 (commencing with Section 30650) is added to Chapter 5 of Part 3 of Division 10 of the Public Utilities Code, to read:

Article 5.5. Citizens' Advisory Committees

30650. Before the district takes action on a route, grades, or station location, including parking and storage facilities, for any portion of a rail transit system, the district may establish a citizens' advisory committee in the area for any identifiable segment of a rail transit system.

30651. The citizens' advisory committee may advise the district of the prevalent sentiments of its area and shall advise the board on any and all related transit issues currently under the jurisdiction of, or contemplated by, the district.

30652. The district may establish a citizens' advisory committee in any identifiable area in which rail transportation is not currently contemplated, but in which the district determines that the board can benefit from public communication, advice, and reaction to district operations, policies, procedures, and plans.

30653. (a) The district shall designate the area to be represented by each citizens' advisory committee, with a separate area for any identifiable segment of a rail transit system and for any identifiable area in the district in which rail transportation is not currently contemplated.

(b) "Identifiable segment of a rail transit system" means an area of a communality of interest surrounding a station structure or structures and the lines between structures.

30655. A citizens' advisory committee shall consist of not less than 15 persons and not more than 45 persons.

30656. Every meeting of a citizens' advisory committee is open to the general public. Minutes of the proceedings shall be kept and shall be available for inspection at the district office.

CHAPTER 726

An act to add Chapter 12 (commencing with Section 76000) to Title 8 of, and to repeal Sections 68073.1, 68073.2, 68073.3, 68073.4, and 68073.6 of, the Government Code, and to amend Section 1464 of, and to repeal Section 1206.8 of, the Penal Code, and to amend Section 42008 of the Vehicle Code, relating to justice facilities.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 68073.1 of the Government Code is repealed.

SEC. 2. Section 68073.2 of the Government Code is repealed.

SEC. 3. Section 68073.3 of the Government Code is repealed.

SEC. 4. Section 68073.4 of the Government Code is repealed.

SEC. 5. Section 68073.6 of the Government Code is repealed.

SEC. 6. Chapter 12 (commencing with Section 76000) is added to Title 8 of the Government Code, to read:

CHAPTER 12. SURCHARGES AND ASSESSMENTS FOR JUSTICE FACILITY CONSTRUCTION

76000. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 76001, 76002, 76004, or 76005 are necessary to the establishment of adequate facilities in the county, the following surcharges and assessments shall be collected, except that a resolution adopted pursuant to Section 76004 may limit the collection to the assessments specified in paragraph (2) and a resolution adopted pursuant to Section 76005 shall limit the collection to the assessments specified in paragraph (2):

(1) With respect to each fund established, for every parking offense where a fine or forfeiture is imposed, a surcharge of one dollar and fifty cents ($1.50) shall be included in the fine or forfeiture.

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

In those cities, districts, or other issuing agencies which elect to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the surcharge provided for by this paragraph.

(2) With respect to each fund established, there shall be levied an additional amount of one dollar ($1) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76001, 76002, 76004, or 76005.

(b) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to Section 76001, 76002, 76004, or 76005.

(c) No county, city and county, city, district or other issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges and assessments

established in the resolution adopted pursuant to this section.

76001. (a) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower courthouse.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (a) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the community of Reseda, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, and has commenced construction on a courthouse for the superior court with at least 12 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Temporary Construction Fund or moneys borrowed against the Courthouse Temporary Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the East Los Angeles Municipal Court District, within the boundaries of the Los Cerritos Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the Pasadena Judicial District, within the Southeast Municipal Court District, the Southbay Judicial District, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (a) and (b), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, the Southbay Judicial District, and the West Los Angeles Branch of the

Los Angeles Municipal Court District.

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

(e) Notwithstanding any other provision of law, to assist the County of Los Angeles in the funding of courtroom construction, the Board of Supervisors of Los Angeles County shall establish in the county treasury a Courthouse Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. The moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. The payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(f) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund shall be payable only for courtroom construction and land acquisition as authorized in subdivision (a) and, after the requirement of subdivision (a) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirements of subdivisions (a) and (b) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c). However, on or after June 1 in any fiscal year and until June 1, 1986, the County of Los Angeles may make temporary transfers of fund moneys to its general fund to assist the county in balancing its general fund. Any such transfer shall be treated as an advance and shall be repaid to the Courthouse Temporary Construction Fund within 180 days of the transfer.

(g) Deposits to the fund in accordance with subdivision (d) shall continue through and including either (1) the 25th year after the

initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of Section 76000 and this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirement of Section 76000.

76002. (a) Notwithstanding any other provision of law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidential to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco shall establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d), (e), and (f). The moneys of the San Francisco Courthouse Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed or financed or (2) to acquire, rehabilitate, construct or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(e) Each city, district, or other issuing agency which elects to

receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(f) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

Deposits to the fund in accordance with subdivisions (d), (e), and (f) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

(g) Subdivisions (a) to (f), inclusive, shall become operative upon the adoption of a resolution by the Board of Supervisors of the City and County of San Francisco stating that the provisions of Section 76000 and this section are necessary to the establishment of adequate courtroom facilities in the City and County of San Francisco, setting forth the surcharge or surcharges to be levied, the amount of such surcharge or surcharges, and the manner in which such surcharge or surcharges shall be collected, and instructing the Clerk of the City and County of San Francisco to transmit, on the next business day following the adoption of said resolution, a copy of said resolution to the Clerk of the Municipal Court of the City and County of San Francisco.

76003. (a) Notwithstanding any other provisions of law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco shall establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d) and (e). The moneys of the San Francisco Courthouse Temporary Construction Fund shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed or financed or (2) to acquire, rehabilitate,

construct or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee in any civil action in either the municipal court or in any civil or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars ($50), and shall be collected in a manner as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco.

76004. (a) Notwithstanding any other provision of law, to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, the board of supervisors, operative upon the adoption of a resolution stating that the provisions of this section and Section 76000 are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

(1) The county treasurer shall place in the fund one dollar ($1) for each parking case presented to or filed in the courts of the county. These moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(2) Each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each bail violation which is not filed in court to the county treasurer. These payments to the county treasurer shall be made monthly, and the treasurer shall deposit all those payments in the fund.

(3) The county treasurer shall place all additional assessment amounts collected on nonparking offenses, pursuant to Section 76000, in the fund.

(b) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities, and for

improvement of criminal justice automated information systems. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(c) However, in order to assist in balancing the county general fund for any fiscal year, until June 1, 1986, the county may make temporary transfers on or after June 1 of that fiscal year from the County Criminal Justice Facility Temporary Construction Fund to the county's general fund. All these transfers shall be treated as advances and shall be repaid to the County Criminal Justice Facility Temporary Construction Fund within 180 days.

(d) For purposes of this section, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the County Criminal Justice Facility Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(e) Deposits to the fund in accordance with paragraphs (1), (2), and (3) of subdivision (a) shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified in subdivision (a) or (b).

76005. (a) Notwithstanding any other provision of law, to assist a county other than Los Angeles or the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary to the operation of the courts, the board of supervisors of a county other than Los Angeles or the City and County of San Francisco, operative upon the adoption of a resolution stating that the provisions of this section and the assessments provided for in paragraph (2) of subdivision (a) of Section 76000 are necessary to the establishment of adequate courtroom facilities in the county, may establish in the county treasury a Courthouse Temporary Construction Fund.

The county treasurer shall place all assessment amounts collected on nonparking offenses pursuant to paragraph (2) of subdivision (a) of Section 76000 in the fund.

(b) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund shall be payable only for courtroom construction as authorized in subdivision (a).

(c) Deposits to the fund in accordance with subdivision (a) shall continue through and including either (1) the 20th year after the

initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to finance construction provided for in this section, whichever time shall be longer.

SEC. 7. Section 1206.8 of the Penal Code is repealed.

SEC. 8. Section 1464 of the Penal Code, as amended by Section 322 of Chapter 1092 of the Statutes of 1983, is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to five dollars ($5) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the

funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of five hundred thousand dollars ($500,000) in any calendar year. The remainder in excess of five hundred thousand dollars ($500,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month.

(g) This section shall become operative on July 1, 1983, shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 9. Section 1464 of the Penal Code, as added by Section 3.5 of Chapter 1437 of the Statutes of 1982, is amended to read:

1464. (a) Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local

ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(g) This section shall become operative on January 1, 1986, shall remain in effect only until July 1, 1987, and as of that date is repealed.

SEC. 10. Section 1464 of the Penal Code, as amended by Section 1 of Chapter 1437 of the Statutes of 1982, is amended to read:

1464. Subject to the provisions of Section 76000 of the Government Code, there shall be levied an assessment in an amount equal to four dollars ($4) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 76000 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county

treasury. The portion thereof attributable to Section 76000 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on July 1, 1987.

SEC. 11. Section 42008 of the Vehicle Code, as added by Chapter 9 of the Statutes of 1984, is amended to read:

42008. In addition to the fees authorized or required by other provisions of law, and upon order of the court in a county in which a fund is established pursuant to Section 76001, 76002, or 76004 of the Government Code, the clerk of the court shall collect one dollar ($1) for each fund so established for the county from every person ordered, in lieu of a fine, to attend a school pursuant to Section 42005 of this code or any court-supervised program of driving instruction.

The amounts collected shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76001, 76002, or 76004 of the Government Code.

SEC. 12. This act does not constitute a change in, but is declaratory of, existing law.

SEC. 13. This act shall become operative only if SB 850 of the 1983–84 Regular Session is chaptered and takes effect on or before January 1, 1985.

CHAPTER 727

An act to add Section 6038 to the Business and Professions Code, and to amend Sections 82011, 82019, 82041, 82048, 82049, and 87200 of, and to add Section 87311.5 to, the Government Code, relating to the Political Reform Act.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 6038 is added to the Business and Professions Code, to read:

6038. Attorney members of the Judicial Council, members of the Commission on Judicial Performance who are not judges, and employees designated in the Conflict of Interest Code of the State Bar of California are subject to provisions of this article with respect to making, participating in the making, or attempting to influence, governmental decisions of their respective state agencies other than decisions of a judicial or quasi-judicial nature.

SEC. 2. Section 82011 of the Government Code is amended to read:

82011. "Code reviewing body" means all of the following:

(a) The commission, with respect to the Conflict of Interest Code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the Conflict of Interest Code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the Conflict of Interest Code of any city agency other than the city council.

(d) The Attorney General, with respect to the Conflict of Interest Code of the commission.

(e) The Supreme Court or its designee, with respect to the Conflict of Interest Code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the Conflict of Interest Code of the State Bar of California.

(g) The Supreme Court, the Court of Appeal, the Superior Court, the Municipal Court, with respect to the Conflict of Interest Code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the Conflict of Interest Code of any state agency within the judicial branch of

government not included under subdivisions (e), (f), and (g).

SEC. 3. Section 82019 of the Government Code is amended to read:

82019. "Designated employee" means any officer, employee, member or consultant of any agency whose position with the agency:

(a) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical or manual;

(b) Is elective, other than an elective state office; or

(c) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

(d) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

"Designated employee" does not include an elected state officer or any unsalaried member of any board or commission which serves a solely advisory function and also does not include any unsalaried member of a non-regulating committee, section, commission or other such entity established by the State Bar of California.

SEC. 4. Section 82041 of the Government Code is amended to read:

82041. "Local government agency" means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

SEC. 5. Section 82048 of the Government Code is amended to read:

82048. "Public official" means every member, officer, employee or consultant of a state or local government agency, but does not include judges and court commissioners in the judicial branch of government. "Public official" also does not include members of the Board of Governors and designated employees of the State Bar of California, members of the Judicial Council, and members of the Commission on Judicial Performance, provided that they are subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

SEC. 6. Section 82049 of the Government Code is amended to read:

82049. "State agency" means every state office, department, division, bureau, board and commission, and the Legislature.

SEC. 7. Section 87200 of the Government Code is amended to read:

87200. This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of planning commissions, members of the board of supervisors, district attorneys and chief administrative officers of counties, mayors, city managers, chief administrative officers and members of city councils of cities, and to candidates for any of these offices at any election.

SEC. 8. Section 87311.5 is added to the Government Code, to read:

87311.5. (a) Notwithstanding the provisions of Section 87311, the review of the Conflict of Interest Code of an agency in the judicial branch of government shall not be subject to the provisions of the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by these agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

(b) Conflict of Interest Codes of the Judicial Council, the Commission on Judicial Performance, and the Board of Governors and designated employees of the State Bar of California shall not be subject to the provisions of subdivision (c) of Section 87302.

SEC. 9. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 10. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 11. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 12. The provisions of this act shall not become operative until July 1, 1985.

CHAPTER 728

An act to amend the heading of Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of, and to amend Sections 12100, 12101, 12102, 12108, 12109, 12110, and 12112 of, the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. The heading of Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code is amended to read:

CHAPTER 3. ACQUISITION OF ELECTRONIC DATA-PROCESSING AND TELECOMMUNICATIONS GOODS AND SERVICES

SEC. 2. Section 12100 of the Public Contract Code is amended to read:

12100. The Legislature finds that the unique aspects of electronic data-processing systems and telecommunications systems and the importance of such systems to state programs warrant a separate acquisition authority for electronic data-processing and telecommunications goods and services. The Legislature further finds that such separate authority should enable the timely acquisition of goods and services in order to meet the state's needs in the most cost-effective manner.

All contracts for the acquisition of electronic data-processing or telecommunications services and all contracts for the acquisition of electronic data-processing or telecommunications goods, whether by lease or purchase, shall be made by or under the supervision of the Department of General Services.

SEC. 3. Section 12101 of the Public Contract Code is amended to read:

12101. It is the intent of the Legislature that policies developed by the Department of Finance and procedures developed by the Department of General Services in accordance with Section 12102 provide for:

(a) The expeditious and cost-effective acquisition of electronic data-processing and telecommunications systems to satisfy state requirements.

(b) The acquisition of electronic data-processing and telecommunications goods and services within a competitive framework.

(c) The delegation of authority by the Department of General Services to each state agency which has demonstrated to the

department's satisfaction the ability to conduct cost-effective electronic data-processing and telecommunications goods and services acquisitions.

(d) The exclusion from state bid processes, at the state's option, of any vendor having failed to meet prior contractual requirements related to electronic data-processing or telecommunications goods and services.

(e) The review and resolution of protests submitted by a vendor or vendors with respect to any electronic data-processing or telecommunications goods and services acquisition.

Further, it is the intent of the Legislature that, if a state electronic data-processing advisory committee or a state telecommunications advisory committee is established by the Governor or the Director of Finance, the policies and procedures developed by the Director of Finance and the Director of General Services in accordance with this chapter shall be submitted to such committee for review and comment, and that such comment be considered by both departments prior to the adoption of any such policy or procedure.

SEC. 4. Section 12102 of the Public Contract Code is amended to read:

12102. The Department of Finance and the Department of General Services shall maintain in the State Administrative Manual, policies and procedures governing the acquisition and disposal of electronic data-processing and telecommunications goods and services. These policies and procedures shall, in accordance with the intent of the Legislature as expressed in Section 12101, provide for the following:

(a) Acquisition of electronic data-processing and telecommunications goods and services shall be conducted through competitive means, except when the Director of General Services determines that (1) the goods and services proposed for acquisition are the only goods and services which can meet the state's need, or (2) the goods and services are needed in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety. The acquisition mode to be used and the procedure to be followed shall be approved by the Director of General Services. The Department of General Services shall maintain in the State Administrative Manual appropriate criteria and procedures to ensure compliance with the intent of this chapter. These criteria and procedures shall include acquisition and contracting guidelines to be followed by state agencies with respect to the acquisition of electronic data-processing and telecommunications goods and services. These guidelines may be in the form of standard formats or model formats.

(b) Contract awards shall be based on the following:

(1) The proposal which provides the most cost-effective solution to the state's requirements, as determined by the evaluation criteria contained in the solicitation document. These evaluation procedures may provide for the selection of a vendor on an objective basis other

than cost alone.

(2) Whenever an acquisition under this section is based upon cost alone, such that the award of a contract, purchase order, or delegated purchase order is made to the lowest responsible bidder meeting the specifications, the 5 percent small business preference provided for in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 and the regulations implementing that chapter shall be accorded to all qualifying small businesses.

(c) Evaluation of bidders' proposals for the purpose of determining contract award shall provide for consideration of a bidder's best financing alternative unless the acquiring agency can demonstrate to the satisfaction of the Department of General Services that a particular financing alternative should not be so considered.

(d) Acquisition authority may be delegated by the Director of General Services to any state agency which has been determined by the Department of General Services to be capable of effective use of such authority. Such authority may be limited by the Department of General Services. Acquisitions conducted under delegated authority shall be reviewed by the Department of General Services on a selective basis.

(e) To the extent practical, the solicitation documents shall provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

(f) Protest procedures shall be developed to provide bidders an opportunity to protest formally with respect to any acquisition conducted in accordance with this chapter. Authority to protest may be limited to participating bidders. The Director of General Services, or a person designated by the director, is authorized to consider and decide on initial protests. A decision regarding an initial protest shall be final. If prior to making the award, any vendor who has submitted an offer files a protest with the department against the awarding of the contract or purchase order on the ground that his bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, such contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relating to the protest. Within 10 calendar days after filing a protest, the protesting vendor shall file with the State Board of Control a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

(g) Electronic data-processing and telecommunications goods which have been determined to be surplus to state needs shall be disposed of in a manner which will best serve the interests of the state. Procedures governing the disposal of surplus goods may include auction or transfer to local governmental entities.

(h) A vendor may be excluded from bid processes if the vendor's performance with respect to a previously awarded contract has been

unsatisfactory, as determined by the state in accordance with established procedures which shall be maintained in the State Administrative Manual. Such exclusion may not exceed 360 calendar days for any one determination of unsatisfactory performance. Any vendor excluded in accordance with this section shall be reinstated as a qualified vendor at any time during this 360-day period, upon demonstrating to the department's satisfaction that the problems which resulted in the vendor's exclusion have been corrected.

SEC. 5. Section 12108 of the Public Contract Code is amended to read:

12108. Until such time as the Department of General Services has published in the State Administrative Manual the procedures required in accordance with Section 12102, acquisitions of electronic data-processing and telecommunications goods and services shall be accomplished in accordance with either existing State Administrative Manual procedures for the acquisition of electronic data-processing goods and services, or Article 2 (commencing with Section 14790) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, as determined by the Department of General Services.

SEC. 6. Section 12109 of the Public Contract Code is amended to read:

12109. The Director of General Services may make the services of the department under this chapter available, upon such terms and conditions as may be deemed satisfactory, to any tax-supported public agency in the state, including a school district, for assisting the agency in the purchase or lease of electronic data-processing or telecommunications goods or services.

SEC. 7. Section 12110 of the Public Contract Code is amended to read:

12110. (a) The Department of General Services is authorized to make purchases or leases of electronic data-processing or telecommunications goods and services, other than printed material, on behalf of any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods or services, upon written request of such local agency; provided that such purchase or lease can be made by the Department of General Services upon the same terms, conditions and specifications at a price lower than the local agency can obtain through its normal acquisition procedures. The state shall incur no financial responsibility in connection with purchases for local agencies under this section. No purchase or lease shall be for less than five hundred dollars ($500) and the local agency shall accept sole responsibility for payment to the vendor. All purchases and leases shall be subject to audit and inspection by the local agency for which made.

(b) Purchases and leases under this section shall be subject to the provisions of this chapter.

(c) A charge shall be made to each local agency availing itself of

this service, the charge to be not less than the estimated cost to the department of rendering the service, including costs incurred by the department in preparation for a purchase or lease requested by a local agency in instances where the request is canceled or withdrawn by the local agency prior to award of the contract or purchase order by the department.

SEC. 8. Section 12112 of the Public Contract Code is amended to read:

12112. Any contract for electronic data-processing or telecommunications goods or services, to be manufactured or performed by the contractor especially for the state and not suitable for sale to others in the ordinary course of the contractor's business may provide, on such terms and conditions as the department deems necessary to protect the state's interests, for progress payments for work performed and costs incurred at the contractor's shop or plant, provided that not less than 10 percent of the contract price is required to be withheld until final delivery and acceptance of the goods or services, and provided further, that the contractor is required to submit a faithful performance bond, acceptable to the department, in a sum not less than one-half of the total amount payable under the contract securing the faithful performance of the contract by the contractor.

SEC. 9. Notwithstanding any other provision of law, the Newport-Mesa Unified School District may make payment, without compliance with any provisions of the law related to competitive bidding, for personal computers which it has heretofore received, at a price less than 50 percent of the retail price of said personal computers; provided, however, the total expenditures permitted by this act shall not exceed the sum of eighty thousand dollars ($80,000).

Due to the unique circumstances concerning the Newport-Mesa Unified School Distict, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Newport-Mesa Unified School District has received possession of personal computers at a price greatly under the market value and selling price of the computers. In order that the district may retain possession of such computers and make timely payment for them, it is necessary that this act take effect immediately.

CHAPTER 729

An act to amend Sections 38285, 38318, 38318.5, and 40000.24 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 38285 of the Vehicle Code is amended to read:

38285. Only those signs, signals, markings, or devices that conform to the uniform standards and specifications adopted by the Department of Parks and Recreation, with the approval of the Off-Highway Motor Vehicle Recreation Commission, shall be placed as provided in Section 38280.

Special signs, signals, markings, or devices may be used on a temporary basis for purposes of directing traffic on and at sanctioned events conducted on public lands with permission of the agency having administrative jurisdiction over such lands.

SEC. 1.5. Section 38318 of the Vehicle Code is amended to read:

38318. (a) Any person who throws any substance at an off-highway motor vehicle or occupant thereof is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury, maliciously and willfully throws or projects any rock, brick, bottle, metal, or other missile, projects any other substance capable of doing serious bodily harm, or discharges a firearm at an off-highway motor vehicle or occupant thereof is guilty of a felony.

SEC. 2. Section 38318.5 of the Vehicle Code is amended to read:

38318.5. (a) Any person who maliciously removes or alters trail, danger, or directional markers or signs provided for the safety or guidance of off-highway motor vehicles is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury (1) proximately causes great bodily injury to any person as a result of acts prohibited by subdivision (a), or (2) erects or places any cable, chain, rope, fishing line, or other similar material which is unmarked or intentionally placed, or both, for malicious purpose is guilty of a felony.

SEC. 3. Section 40000.24 of the Vehicle Code is amended to read:

40000.24. A violation of any of the following provisions shall

constitute a misdemeanor and not an infraction:

(a) Section 38316, relating to reckless driving.

(b) Section 38317, relating to reckless driving with injury.

(c) Subdivision (a) of Section 38318 or subdivision (a) of Section 38318.5, relating to off-highway vehicles.

(d) Section 38319, relating to protection of the environment.

(e) Section 38320, relating to the depositing of matter.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 730

An act to amend Section 1012 of the Military and Veterans Code, and to amend Section 1144 of the Probate Code, relating to the Veterans' Home of California.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984]

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

SECTION 1. Section 1012 of the Military and Veterans Code is amended to read:

1012. The home is for aged and disabled persons who served in the armed forces of the United States during a war period or period of hostility, as defined by law, or in time of peace in a campaign or expedition for service in which a medal has been authorized by the government of the United States, who were discharged or released from active duty under honorable conditions from service, who are eligible for hospitalization or domiciliary care in a veterans' facility in accordance with the rules and regulations of the United States Veterans' Administration, and who are bona fide residents of this state at the time of application; and for the spouses of these persons if all of the following conditions are satisfied:

(a) Space is available.

(b) Joint residency will be in the best interests of the home member, as determined by the administrator.

(c) The spouse is a bona fide resident of this state at the time of application for admission to the home and is married to, and has resided with, the home member for at least one year.

(d) The home member and spouse agree to pay the fees and charges for joint residency which the administrator may establish.

A resident spouse may continue residence after the veteran's death.

The property of the home shall be used for this purpose.

SEC. 2. Section 1144 of the Probate Code is amended to read:

1144. The fee to be allowed to the clerk of the court for the filing of the application provided for in Section 1143 shall be set by the court. The commission of the public administrator and the fee for his or her attorney, if any, for the filing of the application and the performance of any duty or service connected therewith shall be 10 percent of the first two thousand five hundred dollars ($2,500) and, as provided in Section 901, for the ordinary services of other administrators and executors. Sales may be made, with or without notice, as the public administrator may elect, and title to the property sold shall pass without the need of confirmation by the court. The public administrator shall file with the clerk of the court a statement showing the property of the decedent that came into possession of the public administrator and the disposition made thereof, if any, together with vouchers for all expenditures. Any money or other property of a decedent remaining in the possession of the public administrator shall be delivered to the decedent's heirs or beneficiaries, or to other persons or public entities entitled thereto by law, and, in the absence of any such person or public entity, shall, upon petition of the public administrator, be distributed by the court to the State of California.

Upon rendition of a court order distributing money or other property to the State of California under this section, the public administrator shall immediately transmit to the Treasurer or Controller all money or other property distributed to the State of California, subject to Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

SEC. 3. It is the intent of the Legislature, in enacting Section 2 of this act, that Section 1144 of the Probate Code was previously meant to authorize public administrators to distribute qualifying decedents' estates to any person or public entity entitled thereto under any applicable law of the State of California, and that Section 2 therefore does not constitute a change in but is declaratory of existing law.

CHAPTER 731

An act to amend Section 10506 of the Insurance Code, relating to insurance.

[Approved by Governor August 23, 1984 Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 10506 of the Insurance Code is amended to read:

10506. (a) Any domestic life insurance company may, after adoption of a resolution by its board of directors, allocate to one or more separate accounts, in accordance with the terms of a written agreement, any amounts which are paid to the company in connection with a pension, retirement or profit-sharing plan, or program for one or more persons, or with a variable life insurance policy, and which are to be, or may be, applied in payment or in making provision for payment of proceeds or benefits under the company's policies or contracts of retirement benefits, and other benefits incidental thereto, in fixed or variable dollar amounts, or both. The income, if any, and gains or losses, realized or unrealized, on each such account shall be credited to or charged against the amount allocated to the account in accordance with the agreement, without regard to the other income, gains or losses of the company. The amounts allocated to such accounts and accumulations thereon, by any life insurance company shall be invested and reinvested as specified in the agreement without regard to any requirements or limitations prescribed by the laws of this state governing the investments of insurance companies. However, with regard to variable life insurance separate accounts and accumulations thereon, the separate accounts shall have sufficient net investment income and readily marketable assets to meet anticipated obligations under policies funded by the account. The limitations contained in Sections 1192.4 and 1198 are not applicable to such investments. Such investments shall not be included in determining the propriety of other investments of the company. The liability of the company with respect thereto, but only to the extent prescribed in the agreement, shall be shown on the statement of the company in the manner prescribed by the commissioner. Amounts allocated by an insurance company to separate accounts in the exercise of the power granted by this section shall be owned by the company, but shall not be chargeable with liabilities arising out of any other business the company may conduct except and to the extent provided in the agreement. The company shall not hold itself out to be a trustee in respect to such amounts.

(b) In addition to amounts otherwise allocated to separate accounts, a domestic life insurer may allocate to such account or accounts amounts which otherwise would be subject to investment in accordance with Article 4 (commencing with Section 1190) of Chapter 2, Part 2, Division 1. The aggregate of such additional amounts shall not, however, exceed 1 percent of its admitted assets as of the preceding December 31, or 5 percent of the excess of its admitted assets over its liabilities and required reserves as of the preceding December 31, whichever is the smaller. Such company shall be entitled to withdraw at any time, in whole or in part, its

participation in any separate account to which funds have been allocated as provided in this subdivision and to receive, upon withdrawal, its proportionate share of the value of the assets of the separate account at the time of withdrawal.

(c) In addition to the allocations to separate accounts provided for in subdivision (a) of this section, a domestic insurer may, at the request of a policyholder or contract holder or the beneficiary of a policy or contract, allocate to any such separate account or accounts death payments, proceeds of matured endowments, dividends, or surrender values.

(d) Except with the approval of the commissioner, and under such conditions as to investments and other matters as he may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for (1) benefits guaranteed as to dollar amount and duration and (2) funds guaranteed as to principal amount or stated rate of interest, shall not be maintained in a separate account.

(e) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value, or at amortized cost if it approximates market value within the limits and constraints imposed by the United States Securities and Exchange Commission, on the date of valuation, or, if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account. Unless otherwise approved by the commissioner, the portion of any of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in subdivision (d) of this section shall be valued in accordance with the rules otherwise applicable to the company's assets.

(f) No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts, or between any other of its investment accounts and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account is made (1) by a transfer of cash, or (2) by a transfer of securities having a readily determinable market value, and such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts if, in his opinion, such transfer would not be inequitable.

(g) Any domestic life insurance company which establishes one or more separate accounts pursuant to this section may provide for special voting rights and procedures for participants in such separate account relating to investment policy, investment advisory services, and selection of certified public accountants in relation to the administration of the assets in any such separate account. Such voting rights shall be in addition to, and shall not affect, voting rights of

mutual insurers.

(h) The purpose and intent of this section is to permit the issuance and delivery of policies or contracts, in connection with a pension, retirement or profit-sharing plan, or program for one or more persons, or policies of variable life insurance, providing for the payment of benefits in fixed or variable amounts, or both, and the establishment of separate accounts by domestic companies for the administration of and investments under such agreements. To protect the public and policyholders located in this state from hazardous operation by domestic and foreign companies, and to further the purpose and provision of this section, no domestic or foreign life insurance company shall undertake the issuance of any contract providing for variable benefits until said company has satisfied the commissioner that its condition or method of operation in connection with the issuance of such contracts will not be such as would render its operation hazardous to the public or its policyholders in this state and, in the case of a foreign or alien insurer, that it meets the conditions prescribed in Section 716, for the issuance of a certificate of authority. In determining the qualification of a company requesting authority to issue contracts providing for variable benefits within this state the commissioner will consider among other things, (1) the history of the company; (2) the character, responsibility and general fitness of the officers and directors of the company; (3) the regulation of a foreign company by its state of domicile; (4) the adequacy of the investment management which the company is providing; and (5) the company's arrangements for the supervision of the marketing of such contracts. The commissioner may make such reasonable rules and regulations as he considers necessary, proper and advisable concerning the issuance and delivery of such policies and contracts and the payment of benefits thereunder and the manner in which the separate accounts shall be administered and which types of such policies and contracts, if any, shall be subject to his or her approval prior to issue.

However, no company may provide variable benefits in its contracts unless it is an admitted insurer having and maintaining a combined capital and surplus of at least two million dollars ($2,000,000).

(i) (1) Any contract providing benefits payable in variable amounts delivered or issued for delivery in this state on or after the effective date of the amendments to this section enacted at the 1971 Regular Session of the Legislature shall contain a statement of the essential features of the procedures to be followed by an insurance company in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a grouped contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount shall so vary, and shall contain on its first page a statement to the effect that the benefits thereunder are

on a variable basis. Except for Article 3a (commencing with Section 10159.1) of Chapter 1 of Part 2 of Division 2, in the case of a variable life insurance policy, and except as otherwise provided in this section, all pertinent provisions of this code shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state on or after the effective date of the amendments to this section enacted at the 1971 Regular Session of the Legislature, shall contain such nonforfeiture provisions as are appropriate to such a contract.

(2) The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

CHAPTER 732

An act to add Section 1799.97 to the Civil Code, relating to consumer credit contracts.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 1799.97 is added to the Civil Code, to read:

1799.97. (a) No consumer credit contract shall provide for a security interest in any religious books, religious artifacts, or religious materials, valued at less than five hundred dollars ($500), unless the religious books, artifacts, or materials are specifically pledged as collateral.

(b) Any provision in any contract which provides for a security interest in violation of subdivision (a) shall be void and unenforceable.

CHAPTER 733

An act to amend Section 3513 of the Government Code, relating to state employer-employee relations.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which

includes employees of the state and which has as one of its primary purposes representing these employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, employees of the Department of Personnel Administration, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's office.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his or her designated representatives.

(j) "Fair share fee" means the fee deducted by the state employer from the salary or wages of a state employee in an appropriate unit who does not become a member of and financially support the recognized employee organization. The fair share fee shall be used to defray the costs incurred by the recognized employee organization in fulfilling its duty to represent the employees in their employment relations with the state, and shall not exceed the standard initiation fee, membership dues, and general assessments of the recognized employee organization.

CHAPTER 734

An act to amend Sections 1 and 2 of Chapter 669 of the Statutes of 1919, relating to lands granted in trust to the City of Monterey.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984]

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

SECTION 1. Section 1 of Chapter 669 of the Statutes of 1919 is amended to read:

Section 1. The State of California does hereby grant and convey to the City of Monterey, a municipal corporation organized and existing under and by virtue of the laws of the State of California, all the right, title, and interest of the State of California, held by the state by virtue of its sovereignty, of, in, and to, all the tidelands and submerged lands within the corporate limits of the City of Monterey, as the corporate limits existed in 1919, and bounded and described as follows, to wit: Commencing at a point where the line of the corporation limits of the city, as the corporate limits existed in 1919, strikes the Bay of Monterey on the north, and running along the entire waterfront thereof in a southerly and westerly direction to the point where the southern or western boundary of the city strikes the bay, comprising the entire waterfront of the city, out to a depth of 60 feet at low tide water; to be forever held by the City of Monterey in trust for uses and purposes of commerce, navigation, fisheries, and recreation, which are of general statewide interest and benefit, and upon the conditions set forth in this act; provided, that the rights of all persons, if any exist, under any title derived from the State of California, in and to any part of the property and premises hereby granted and conveyed, be and the same are hereby reserved from the operation of this act.

SEC. 2. Section 2 of Chapter 669 of the Statutes of 1919 is amended to read:

Sec. 2. The tidelands and submerged lands hereby granted and conveyed to the City of Monterey shall not be subject to execution upon any judgment against the city, but, from time to time, may be let or leased for a term not exceeding 66 years, as the the city or its successors may deem to be most advantageous to the city; provided, that not more than 300 feet frontage of the tidelands and submerged lands shall be leased to one lessee; except that, at the discretion of the city, and with the approval of the State Lands Commission, any owner of upland property immediately adjacent to the waterfront may lease, in whole or in part, those tidelands and submerged lands adjacent to that upland property, regardless of whether the frontage of tidelands and submerged lands exceeds 300 feet; and provided, further, that, at and upon any wharf or dock erected or built upon property so leased, any and all vessels shall have a right to dock, land, and discharge passengers or merchandise upon payment to the lessee or lessees of reasonable dockage and wharfage. The dockage and wharfage shall be regulated and prescribed in the lease, and as thereafter, from time to time, may be determined by ordinance or resolution of the City of Monterey or by statute of the State of California.

CHAPTER 735

An act to amend Section 662 of the Public Resources Code, relating to mining and geology.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 662 of the Public Resources Code is amended to read:

662. One member of the board shall be a registered geologist with background and experience in mining geology; one member shall be a mining engineer with background and experience in mining minerals in California; one member shall be a registered engineer with background and experience in chemical engineering and in hazardous waste disposal; one member shall be a representative of local government with background and experience in urban planning; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be a registered geologist, registered geophysicist, registered civil engineer, or registered structural engineer with background and experience in seismology; one member shall be a landscape architect with background and experience in soil conservation or revegetation of disturbed soils; one member shall have background and experience in mineral resource

conservation, development, and utilization; and one member shall not be required to have specialized experience. All members of the board shall represent the general public interest.

SEC. 2. The amendments made by this act in Section 662 of the Public Resources Code shall be operative upon the expiration of term of the member of the board who is a registered civil engineer with background and experience in soil engineering.

CHAPTER 736

An act to amend Sections 69895, 69900, 74502, 74503, and 74504 of the Government Code, relating to courts.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 69895 of the Government Code is amended to read:

69895. In the City and County of San Francisco, the superior court shall appoint an executive officer who shall act as a secretary to the judges of the superior court and perform the duties of jury commissioner pursuant to Section 69893 and all duties of a court administrator as described in Section 69898.

On the authorization of the judges, the executive officer shall have an assistant executive officer who shall assist in the performance of the duties of Sections 69893 and 69898.

The court may delegate to the executive officer any administrative powers and duties as are now or hereafter by law may be vested in or required to be exercised by such court.

The salaries of the executive officer and assistant executive officer shall be paid by the city and county.

SEC. 2. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

Title	Class Number
One executive officer	0555
One assistant executive officer	0584
One administrative assistant	0585
One civil courts administrator	0588
One criminal courts coordinator	0638
One mental health coordinator	0657
One pre-trial assistant and statistician	0636
One civil jury coordinator	0586

One criminal jury coordinator	0587
Six court commissioners	0620
Four assistant court commissioners	0635
One senior counselor, family court services	0640
Five counselors family court services	0655
One court calendar clerk	0670
One assistant court calendar clerk	0672
Three court investigators	0648
Three probate examiners	0649
Two court assistants senior	0590
Three court assistants	0589
One research assistant to presiding judge	0735
Seven research assistants	0676
One secretary to executive officer	0679
Four judicial secretaries	0680
Eleven judicial clerks senior	0681
Two information clerks	0705
Three judicial clerks	0697
Twenty-eight court reporters	0710

The class numbers set forth in the previous paragraph refer to the superior court position classifications contained in the salary ordinance of the City and County of San Francisco. Those positions shall be paid monthly the equivalent amount as specified in the salary ordinance. All salaries for original appointments shall be at step 1, provided that on the first of the month following the first anniversary of the employee's appointment he or she shall advance to the second step, and thereafter on the first of the month following the second anniversary of the employee's appointment he or she shall advance to step 3, and thereafter on the first of the month following the third anniversary of the employee's appointment he or she shall advance to step 4, and thereafter shall be paid at the rate established by step 4. Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1983–84 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the city and county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the city and county for miscellaneous employees.

With the approval of the board of supervisors the court may establish such additional titles and pay rates as are required and with the approval of the board of supervisors may appoint and employ such additional commissioners, officers and assistants and other em-

ployees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers and assistants and other employees may be altered by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1 of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of the employees of the superior court shall be paid by the city and county.

SEC. 3. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk-executive officer who shall also serve as secretary to the judges and who shall be paid a salary of four thousand sixty-four dollars ($4,064) monthly during the first year of service, a salary of four thousand two hundred sixty-seven dollars ($4,267) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of four thousand four hundred seventy-six dollars ($4,476) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of four thousand eight hundred fifty-two dollars ($4,852) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one clerk-executive officer who shall also serve as secretary to the judges, and who shall hold office at their pleasure and who shall receive the salary provided in this section.

(b) Notwithstanding the provisions of Section 72400, the judges, or a majority of them, shall appoint three traffic referees who shall hold office at their pleasure. The traffic referees shall have the powers and duties specified in Sections 72401, 72402, and 72403 and shall be paid a salary equal to 50 percent of the salary of a judge of the municipal court during the first year of service; subject to approval of the judges, or a majority of them, a salary equal to 65 percent of the salary of a judge of the municipal court after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment; and subject to the approval of the judges, or a majority of them, a maximum salary equal to 75 percent of the salary of a judge of the municipal court after the second year of service, commencing on the first day of the month following the second anniversary of his or her appointment.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of three thousand sixteen dollars ($3,016) monthly during the first year of service, a salary of three thousand one hundred sixty-nine dollars ($3,169) monthly after the first year

of service, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand three hundred twenty-one dollars ($3,321) monthly after the second year of service, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary provided in this section. When the executive assistant to the presiding judge is a member of the state bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(d) There shall be one executive secretary to the presiding judge who shall serve as executive secretary to the presiding judge who shall be paid the salary of one thousand nine hundred twenty-six dollars ($1,926) monthly during the first year of service, a salary of two thousand twenty-two dollars ($2,022) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand one hundred thirty dollars ($2,130) monthly after the second year of service, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as provided in this section.

(e) There shall be one small claims legal advisor who shall be paid a salary of two thousand seven hundred thirty-three dollars ($2,733) monthly during the first year of service, a salary of two thousand eight hundred thirty-eight dollars ($2,838) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of three thousand six dollars ($3,006) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand one hundred fifty-three dollars ($3,153) monthly after the third year of service, commencing on the first day of the month following the third anniversary of his of her appointment, and a maximum salary of three thousand three hundred five dollars ($3,305) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one small claims legal advisor, who shall hold office at their pleasure and who shall receive the salary provided in this section.

SEC. 4. Section 74503 of the Government Code is amended to

read:

74503. (a) There shall be two chief deputies, one with responsibility overall of the civil and small claims divisions, one with responsibility over all of the criminal and traffic divisions, each of whom shall also serve as jury commissioner and who shall exercise the powers of jury commissioner of superior courts insofar as they are applicable to the municipal court and who shall perform such other duties as assigned by the judges of the court and who shall be paid a minimum salary of three thousand six hundred sixty-five dollars ($3,665) monthly during the first year of service, a salary of three thousand eight hundred eighteen dollars ($3,818) monthly after the first year of service, commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand nine hundred eighty-three dollars ($3,983) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a chief deputy who shall also serve as jury commissioner and who shall hold office at their pleasure, and who shall perform such other duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(b) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, two deputy clerks who shall be the court systems coordinators and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand eight hundred eighty-four dollars ($2,884) monthly during the first year of service, a salary of three thousand seventeen dollars ($3,017) monthly after the first year of service commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand one hundred fifty-five dollars ($3,155) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk who shall be court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(c) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be assistant court systems coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand five hundred thirteen dollars ($2,513) monthly during the first year of service, a salary of two thousand six hundred thirty dollars ($2,630) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appoint-

ment, and a maximum salary of two thousand seven hundred sixty-five dollars ($2,765) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the assistant court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(d) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint a court fiscal officer who shall be paid a minimum salary of three thousand sixty-seven dollars ($3,067) monthly during the first year of service, a salary of three thousand two hundred seven dollars ($3,207) monthly during the second year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a salary of three thousand three hundred fifty-two dollars ($3,352) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(e) The clerk shall appoint three deputy clerks who shall be the chief division clerks in the civil, criminal and traffic divisions of the court, and who shall be paid a minimum salary of two thousand eight hundred eighty-four dollars ($2,884) monthly during the first year of service, a salary of three thousand seventeen dollars ($3,017) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand one hundred fifty-five dollars ($3,155) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(f) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be criminal courts calendar coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand eight hundred eighty-four dollars ($2,884) monthly during the first year of service, a salary of three thousand seventeen dollars ($3,017) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand one hundred fifty-five dollars ($3,155) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the criminal courts calendar coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary

hereinabove provided.

(g) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges may appoint, one court program analyst manager who shall be paid a salary of two thousand eight hundred twenty-two dollars ($2,822) monthly during the first year of service, a salary of two thousand nine hundred sixty-eight dollars ($2,968) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment a salary of three thousand one hundred eighteen dollars ($3,118) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand two hundred seventy-four dollars ($3,274) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of three thousand four hundred thirty-seven dollars ($3,437) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(h) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one assistant court program analyst manager who shall be paid a salary of two thousand one hundred fifty-three dollars ($2,153) monthly during the first year of service, a salary of two thousand three hundred seventy-six dollars ($2,376) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of two thousand four hundred ninety-four dollars ($2,494) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, a salary of two thousand six hundred nineteen dollars ($2,619) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of two thousand seven hundred fifty-one dollars ($2,751) monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one assistant court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of this court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary

salary level.

SEC. 5. Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid a minimum salary of two thousand five hundred thirteen dollars ($2,513) monthly during the first year of service, a salary of two thousand six hundred thirty dollars ($2,630) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of two thousand seven hundred sixty-five dollars ($2,765) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(b) Thirty-five deputy clerks who shall be paid a minimum salary of two thousand seventy-nine dollars ($2,079) monthly during the first year of service, a salary of two thousand two hundred eleven dollars ($2,211) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand three hundred eighty-five dollars ($2,385) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(c) Twenty-five deputy clerks who shall be paid a minimum salary of one thousand eight hundred two dollars ($1,802) monthly during the first year of service, a salary of one thousand eight hundred sixty-four dollars ($1,864) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of one thousand nine hundred thirty-one dollars ($1,931) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(d) One deputy clerk who shall be paid a minimum salary of one thousand six hundred eighty-six dollars ($1,686) monthly during the first year of service, a salary of one thousand seven hundred thirty-one dollars ($1,731) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand seven hundred eighty-one dollars ($1,781) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(e) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one administrative legal stenographer who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand eight hundred fourteen dollars ($1,814) monthly during the first year of service, a salary of one thousand eight hundred seventy-seven dollars ($1,877) monthly after the first year of service commencing on the first day of the month

following the first anniversary of his or her appointment, and a maximum salary of one thousand nine hundred seventy-eight dollars ($1,978) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one administrative legal stenographer who shall hold such position at their pleasure, and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(f) Thirty-seven deputy clerks who shall be paid a minimum salary of one thousand five hundred twenty dollars ($1,520) monthly during the first year of service, a salary of one thousand six hundred nine dollars ($1,609) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand seven hundred one dollars ($1,701) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(g) Seventy-six deputy clerks who shall be paid a minimum salary of one thousand one hundred ninety-nine dollars ($1,199) monthly during the first year of service, a salary of one thousand two hundred ninety-eight dollars ($1,298) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand four hundred thirty-four dollars ($1,434) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment.

(h) Six deputy clerk-information clerks who shall be paid a minimum salary of one thousand three hundred fifty-five dollars ($1,355) monthly during the first year of service, a salary of one thousand five hundred forty-one dollars ($1,541) monthly after the first year of service commencing on the first day of the month following the first anniversary of his or her appointment, a salary of one thousand seven hundred thirty-one dollars ($1,731) monthly after the second year of service commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of one thousand seven hundred eighty-eight dollars ($1,788) monthly after the third year of service commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the clerk, with the approval of the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk-information clerk, who shall perform such duties as assigned by the clerk and who shall receive the salary hereinabove provided.

(i) One class 1654 principal accountant, two class 1650 accountants, one class 1632 senior account clerk, two class 1630 account clerks, each of whom shall have the qualifications requisite to the particular civil service class of their appointment, and each of whom

shall be paid the salaries designated for their respective civil service class in the annual salary ordinance of the City and County of San Francisco.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(k) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the court fiscal officer shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(*l*) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(m) Five deputy clerks designated in Section 74504 and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(n) Two deputy clerks designated in Section 74504 who shall serve as master jury calendar clerk, civil, and master jury calendar clerk, criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(o) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(p) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 737

An act to amend Section 7154 of the Health and Safety Code, and to amend Sections 12800, 12811, and 13005 of, and to add Section 13000.5 to, the Vehicle Code, relating to anatomical gifts.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 7154 of the Health and Safety Code is amended to read:

7154. (a) A gift of all or part of the body under Section 7151 may be made by will. The gift shall become effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, shall be nevertheless valid and effective.

(b) A gift of all or part of the body under Section 7151 may also be made by document other than a will. The gift shall become effective upon the death of the donor. The document, which may be a card designed to be carried on the person, shall be signed by the donor. If the donor cannot sign, the document may be signed for the donor at his or her direction and in the donor's presence and in the presence of two witnesses who shall also sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime shall not be necessary to make the gift valid.

The document may also be a driver's license or identification card meeting the requirements of subdivision (b) of Section 12811 or subdivision (b) of Section 13005 of the Vehicle Code.

(c) The gift may be made to a specified donee or without specifying a donee. If no donee is specified, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician, upon or following death of the donor, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subdivision shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding subdivision (b) of Section 7155.5, the donor may designate in his or her will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for this purpose.

(e) Any gift by a person designated in Section 7151.5 shall be made by a document signed by him or her or made by his or her telegraphic, recorded telephonic, or other recorded message.

SEC. 2. Section 12800 of the Vehicle Code is amended to read:

12800. Every application for a driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, and residence address.

(b) A brief description of the applicant for the purpose of

identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) The application shall contain provisions by which the applicant may indicate his or her willingness and intent to make an unrestricted anatomical gift of all or part of the applicant's body pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

SEC. 3. Section 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(b) With every driver's license issued on and after July 1, 1985, the department shall provide a sticker for the licensee to place on the

front of the license. The department shall also provide a form which may be affixed to the back of the license by which the licensee may indicate his or her willingness and intent to make an anatomical gift pursuant to subdivision (b) of Section 7154 of the Health and Safety Code. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the licensee. If the licensee cannot sign, the statement may be signed for the licensee at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the sticker provided pursuant to subdivision (b).

(d) No contract shall be let to any nongovernmental entity for the processing of drivers' licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 4. Section 13000.5 is added to the Vehicle Code, to read:

13000.5. The application for an identification card shall contain provisions by which the applicant may indicate his or her willingness and intent to make an unrestricted anatomical gift of all or part of the applicant's body pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

SEC. 5. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear his or her picture, and be produced in color or engraved by a process or processes that prohibit as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

(b) With every identification card issued on and after July 1, 1985, the department shall provide a sticker for the cardholder to place on the front of the identification card and a form which may be affixed to the back of the identification card, by which the cardholder may indicate his or her willingness and intent to make an anatomical gift pursuant to subdivision (b) of Section 7154 of the Health and Safety Code. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the holder of the card. If the holder of the card cannot sign, the statement may be signed for the cardholder at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall

become effective upon the death of the holder of the card.

(c) No contract shall be let to any nongovernmental entity for the processing of identification cards, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 6. This act shall become operative on July 1, 1985.

CHAPTER 738

An act to amend Section 4555 of the Public Resources Code, relating to forest practices.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 4555 of the Public Resources Code is amended to read:

4555. If the director determines that a substantial question exists concerning whether the intent of this chapter is currently provided for by the rules and regulations of the board, and that approval of a timber harvesting plan which has been filed could result in immediate, significant, and long-term harm to the natural resources of the state, the director may withhold decision on a timber harvesting plan. However, within five days of that action, the director shall notify the board of that action. Within 30 days of the receipt of the notice, the board shall, after a public hearing, make a determination as to whether or not the intent of this chapter has been provided for in the rules and regulations of the board. The determination shall be conclusive.

If the board finds that the intent of this chapter has not been provided for in the rules and regulations, the board shall act to amend the rules by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall act upon the plan within 15 days of the board's action. Emergency regulations adopted pursuant to this section shall be effective for not more than 120 days. The regulations may be made permanent if the board acts to adopt or revise its rules and regulations pursuant to procedures established in this article for the adoption of other than emergency regulations.

CHAPTER 739

An act to add Section 14842.5 to the Government Code, and to add Section 94.4 to the Streets and Highways Code, relating to small businesses.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 14842.5 is added to the Government Code, to read:

14842.5. (a) It shall be unlawful for a person to:

(1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a small business enterprise for the purposes of this chapter.

(2) Willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a small business enterprise.

(3) Willfully and knowingly obstruct, impede, or attempt to obstruct or impede, any state official or employee who is investigating the qualifications of a business entity which has requested certification as a small business enterprise.

(4) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this chapter.

(b) Any person who is found by the department to have violated any of the provisions of subdivision (a) is subject to a civil penalty of not more than five thousand dollars ($5,000).

(c) If a contractor, subcontractor, supplier, subsidiary, or affiliate thereof, has been found by the department to have violated subdivision (a) and that violation occurred within three years of another violation of subdivision (a) found by the department, the department shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity and from being a supplier to a state entity.

SEC. 2. Section 94.4 is added to the Streets and Highways Code, to read:

94.4. (a) It shall be unlawful for a person to:

(1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification

as a minority business enterprise for the purposes of this article.

(2) Willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority business enterprise.

(3) Willfully and knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualifications of a business entity which has requested certification as a minority business enterprise.

(4) Knowingly and willfully with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this article.

(b) Any person who is found by the department to have violated any of the provisions of subdivision (a) is subject to a civil penalty of not more than five thousand dollars ($5,000).

(c) If a contractor, subcontractor, supplier, subsidiary, or affiliate thereof, has been found by the department to have violated subdivision (a) and that violation occurred within three years of another violation of subdivision (a) found by the department, the department shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity and from being a supplier to a state entity.

(d) For the purposes of this section, "minority" means those individuals who can be identified as being part of one of the following groups:

(1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa.

(2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

(4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas.

(5) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

(6) Those persons determined by the department, on a case-by-case basis, as socially and economically disadvantaged in accordance with applicable federal regulations.

(e) For the purposes of this section, "minority business enterprise" means a small business concern, as defined in Section 632 of Title 15 of the United States Code, and which also meets the following requirements:

(1) It is at least 51 percent owned by one or more women or minority individuals or, in the case of any publicly-owned business, at least 51 percent of its stock is owned by one or more women or minority individuals.

(2) Its management and daily business operations are controlled by one or more of the women or minority individuals who own it.

CHAPTER 740

An act to amend Sections 4553 and 4554 of the Government Code, relating to public works contracts.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 4553 of the Government Code is amended to read:

4553. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

In state contracts, the preceding provisions of this section shall be included in full in any specifications for the public purchase and shall be included in full in the bid agreement or general provisions incorporated into the bid agreement.

SEC. 2. Section 4554 of the Government Code is amended to read:

4554. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

In state contracts, the preceding provisions of this section shall be included in full in any specifications for the public purchase and shall be included in full in the bid agreement or general provisions incorporated into the bid agreement.

CHAPTER 741

An act to amend Sections 53601 and 53635 of the Government Code, relating to funds of local agencies.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus

money which may be invested pursuant to this section.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a

commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall

mean securities of the same issuer, description, issue date, and maturity.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 742

An act to amend Section 192 of the Penal Code, relating to manslaughter, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 192 of the Penal Code is amended to read:

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary—upon a sudden quarrel or heat of passion.

(b) Involuntary—in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) Vehicular—

(1) Except as provided in paragraph (3), driving a vehicle in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in the commission of a lawful

act which might produce death, in an unlawful manner, and with gross negligence.

(2) Except as provided in paragraph (4), driving a vehicle in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, and with gross negligence; or driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(4) Driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of an unlawful act, not amounting to felony, but without gross negligence; or driving a vehicle in violation of Section 23152 or 23153 of the Vehicle Code and in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

This section shall not be construed as making any homicide in the driving of a vehicle punishable which is not a proximate result of the commission of an unlawful act, not amounting to felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

"Gross negligence", as used in this section, shall not be construed as prohibiting or precluding a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in People v. Watson (1981) 30 Cal. 3d 290.

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

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

In order to insure that an unintentional loophole in the law does not result in the acquittal or dismissal of charges for persons who have committed vehicular manslaughter, but whose level of intoxication does not result in a driving under the influence conviction, it is necessary that this act take immediate effect.

CHAPTER 743

An act to amend Section 42314 of the Health and Safety Code, and to add Section 25541.1 to the Public Resources Code, relating to resource recovery projects.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 42314 of the Health and Safety Code is amended to read:

42314. Notwithstanding any other provision of any state or local new source review or prevention of significant deterioration rules and regulations, except as provided in subdivision (c), the district shall issue permits for the following:

(a) (1) The construction and operation of a cogeneration technology project, if the project will utilize, for each affected pollutant only, the appropriate degree of pollution control technology (BACT or LAER) as defined and to the extent required by the rules of the district.

(2) Pursuant to procedures developed in accordance with Section 41605, for the electrical generation portion of any cogeneration project, offsets shall be provided by the applicant only for those pollutant emissions which exceed the calculated average of emissions from hydrocarbon combustion-based electrical generating facilities operated by the serving utility in the same air basin to provide the same amount of electrical energy. In no event shall any calculated utility pollutant emissions displacements which may be considered in accordance with this section be banked or otherwise reserved for future use.

(3) Except as provided in paragraph (2), offsets shall be provided in accordance with the requirements of local rules and regulations.

(4) For cogeneration projects smaller than 50 megawatts for which offsets are required under either paragraph (2) or (3), the applicant shall be required to provide offsets only to the extent they are available from facilities it owns or operates in the district and would mitigate the project's impacts. In the case of a cogeneration project using a combined cycle configuration, the electrical capacity of the steam turbine portion may be excluded from the calculation of the total electrical capacity of the project for purposes of subdivision (a) of Section 41604 and of this paragraph only if no supplemental firing is used for the steam turbine portion and if the combustion turbine has a minimum efficiency of 25 percent.

(5) In providing the electrical generation credit for the project pursuant to paragraph (2), and for the purposes of this section only, the utility, where not an applicant, shall not be required to furnish emission offsets on a case-by-case basis for the project, nor shall this

section permit the district on a case-by-case basis to limit the ability of the utility to operate its existing hydrocarbon combustion facilities in accordance with the requirements of the Public Utilities Code or the governing body of a public utility owned by a municipality or other political subdivision of the state.

(b) The construction of a resource recovery project, if all of the following conditions are met:

(1) The project produces less than 50 megawatts of electricity, except as provided in paragraph (4).

(2) The project will utilize the appropriate degree of pollution control technology required by the new source review rule of the district.

(3) The project applicant has, in the judgment of the district, made a good faith effort to secure all available emission offsets to mitigate the impact of the project, but that sufficient offsets or other mitigation measures are not available. The applicant, however, shall be required to secure all the offsets which are available to mitigate the air quality impact of the project, except for resource recovery projects which constitute a modification to an existing source under the district's new source review rule, in which case the applicant shall only be required to provide offsets from facilities which the applicant owns or operates within the air basin.

(4) The project produces 50 megawatts or more, but less than 80 megawatts, of electricity, meets the requirements of paragraphs (2) and (3), is located in a district whose state implementation plan revisions have been approved by the Environmental Protection Agency and that has attained, or is reasonably expected to attain, national air quality standards for any criteria pollutant for which sufficient growth allowances are available in the air quality maintenance plan or, in the event the project would cause any criteria pollutant to exceed the available or possible future growth allowance, the applicant shall secure offsets in an amount equal to the excess in the growth allowance, and processes municipal wastes from one or more municipalities. Notwithstanding any other provision of this section, any project under this paragraph shall comply with applicable prevention of significant deterioration rules and regulations.

(c) If a proposed resource recovery project under subdivision (b) has an electrical generating capacity of 50 megawatts or more, the district shall determine whether the project meets the requirements of this section and, in making its determination, shall consider the potential emission of noncriteria pollutants from project facilities and develop appropriate permit conditions. The district shall submit its determination and supporting analysis, including the analysis of noncriteria pollutants and appropriate permit conditions, to the State Energy Resources Conservation and Development Commission for use pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

SEC. 2. Section 25541.1 is added to the Public Resources Code, to

read:

25541.1. It is the intent of the Legislature to encourage the development of thermal powerplants using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a thermal powerplant using resource recovery technology addresses both problems by doing all of the following:

(a) Generating electricity from a nonfossil fuel of an ample, growing supply.

(b) Conserving landfill space, thus reducing waste disposal costs.

(c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 744

An act to amend Sections 6120 and 6126 of the Health and Safety Code, relating to the Department of Housing and Community Development.

[Approved by Governor August 23, 1984. Filed with Secretary of State August 24, 1984.]

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

SECTION 1. Section 6120 of the Health and Safety Code is amended to read:

6120. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Community facility" means a public or mutual water system, or publicly operated waste water system.

(b) "Department" means the Department of Housing and Community Development.

(c) "Eligible grantee" means a local governmental entity or a private nonprofit organization which has demonstrated capacity to provide technical assistance on all subjects specified in subdivision (g).

(d) "Low-income community" means a community in which the

median income of the persons in the community, area, or city is less than 70 percent of the median income in the state.

(e) "Rural community" means any community, area, or city with less than 5,000 population.

(f) "Seed money" means funds granted by the department pursuant to the provisions of this chapter for project organization and development, test wells, preliminary engineering, professional fees, and other costs which are necessary to get a project approved for financing from local, state, or federal sources.

(g) "Technical assistance" means assistance and advice on all of the following subjects:

(1) Organization, including formation, financing, and operation, of public and private nonprofit service entities.

(2) Community responsibilities, including the conduct of meetings, maintenance of minutes of meetings, preparation and analysis of budgets, keeping of fiscal records, and supervision of staff.

(3) Operation and maintenance, including schedules and techniques pertaining to all parts of a facility, and maintenance control systems and maintenance recordkeeping to assure adequate maintenance, including schedules and techniques pertaining to all parts of a facility, and maintenance control systems and maintenance recordkeeping to assure adequate maintenance is performed on a facility.

(4) Project development, including, but not limited to:

(A) The preparation of plans for needed expansion, creation of services, and schedules for expected major repairs or replacement needs.

(B) Negotiation of contracts for professional services.

(C) An examination of various funding alternatives, and packaging applications for assistance.

(D) Review of engineering plans and specifications for development projects.

(E) Compliance with appropriate regulations relative to funding agencies.

(5) Financial assistance available from the department in seed money grants pursuant to this chapter.

SEC. 2. Section 6126 of the Health and Safety Code is amended to read:

6126. The department shall grant funds by contract with eligible grantees under the following conditions:

(a) That grantees shall have the ability to provide all aspects of technical assistance on at least a countywide basis.

(b) That grantees shall use no more than 80 percent of those funds for staff and administrative costs connected with the provision of that technical assistance.

(c) That each community designated by a grantee to receive seed money shall be reviewed and certified by the department as eligible for those funds.

(d) That any community designated to receive seed money shall

also receive technical assistance.

(e) That no community shall receive seed money which is greater than the sum of seven thousand five hundred dollars ($7,500) or two hundred dollars ($200) per family in such community, whichever is less.

(f) The department and the grantee shall place seed money funds in a joint savings account which requires both the department and grantee to give authorization prior to the withdrawal of those funds.

CHAPTER 745

An act to amend Section 5090.50 and 5090.55 of the Public Resources Code, relating to public resources.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 5090.50 of the Public Resources Code is amended to read:

5090.50. Grants may be made to cities, counties, and appropriate districts for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, trailheads, areas, and other facilities for the use of off-highway motor vehicles that are in accordance with local plans and any plans for off-highway motor vehicle recreation areas and trails prepared by the division.

Every applicant for a grant shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). This paragraph is declaratory of, and does not constitute a change in, existing law.

SEC. 2. Section 5090.55 of the Public Resources Code is amended to read:

5090.55. Any moneys in the fund allocated pursuant to subdivision (a) of Section 5090.61 and not appropriated for local assistance grants pursuant to Section 5090.50, shall be available for appropriation to the division for expenditure pursuant to cooperative agreements with agencies of the United States for any joint undertaking of any function that the division is authorized by this chapter to perform, except the enforcement of laws controlling the operation of off-highway motor vehicles.

No cooperative agreement shall become effective until the division has determined that the participating agency of the United States has completed environmental review procedures that are at least comparable to those of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

CHAPTER 746

An act to add Section 14136.8 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 14136.8 is added to the Welfare and Institutions Code, to read:

14136.8. No reimbursement shall be made for medical transportation services provided pursuant to subdivision (i) of Section 14132 when the services are prescribed or ordered by a person who has a significant beneficial interest in the medical transportation services rendered unless the nature and extent of that interest have been disclosed in accordance with, and subject to, Section 51466 of Title 22 of the California Administrative Code.

CHAPTER 747

An act to add and repeal Section 31767 of the Government Code, relating to county retirement.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 31767 is added to the Government Code, to read:

31767. Notwithstanding any provision of this chapter, a retired employee who chose no optional settlement or optional settlement one at retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of his or her lifetime applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name his or her spouse as beneficiary. For purposes of this section, "spouse" means a spouse who was married to the retired member after January 1, 1980, and at least one year prior to the designation as beneficiary under this section. The election provided by this section is irrevocable and shall be made within one year after the person who is designated as beneficiary became a spouse, as defined by this section or before July 1, 1985.

This section shall remain in effect only until January 1, 1991, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends such date.

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

CHAPTER 748

An act to amend Sections 11011.1 and 11011.9 of the Government Code, relating to surplus state land.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), (d), (e), and (k), or any combination thereof, transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value. No surplus land shall be sold for less than fair market value, however, to any person or agency, whether public or private, unless the contract for sale provides for the reversion of the land to the state if the stated purpose for which the property is sold is not achieved.

(b) Where the land is to be used for park and recreation purposes and operated for those purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if the transfer is in the public interest, under the following conditions:

(1) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(2) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where the land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under any of the following conditions:

(1) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(2) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(4) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, if the state has held title to the land for seven years or less and the land is not used for the purposes for which it was acquired, and the land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state, prior to offering the land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase the land at current fair market value. The offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated. The land may be transferred to local agencies at a reasonable cost which will enable the provision of housing for persons and families of low or moderate income. The cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for the housing in the community.

(B) The land is suitable for development of the housing.

(2) The local agency develops a plan for the housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. The plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of the property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease or sell the property to any nonprofit corporation, housing corporation, limited dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing the private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of the property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. The agreement shall be binding upon successors in interest of the original lessee or purchaser and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- or moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose for not less than 40 nor more than 55 years, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of the property, at the time of the department's determination of noncompliance, plus 6 percent interest on that amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- or moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the

local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that, if development has not commenced within that time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more of those agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(8) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(e) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor. The land may be sold or leased at a reasonable cost which may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of such housing pursuant to criteria established by the

Department of Housing and Community Development. The criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low and moderate income. Insofar as is practical, the plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be under development within 24 months from the time of transfer or lease of the land to the housing sponsor. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an additional period of 36 months. The aggregate of all extensions for commencement of development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low and moderate income for not less than 40 nor more than 55 years. In accordance with regulations which shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement which (A) provides for limitations on profit in the operation of such property which benefit the public and which assure that the housing is affordable to persons and families of low and moderate income, and (B) does not permit the use of the property for purposes other than the provision of housing for persons and families of low and moderate income except as provided in this subdivision. Upon recordation of the agreement in the office of county recorder in the county in which the real property subject to the agreement is located, the agreement shall be binding for a period of not less than 40 nor more than 55 years upon successors in interest to the original housing sponsor and shall inure to the benefit of, and be enforceable by, the state.

For the purposes of this subdivision, "housing sponsor" means a nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code; a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code; a limited-dividend housing corporation; or a private housing developer who agrees to the conditions set forth in this subdivision.

(4) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the

sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(g) Where the land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. The transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions which he or she determines to be in the best interest of the state.

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer the lands for housing pursuant to subdivision (d).

(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.

(k) Where the land is to be used for school purposes, the Director of General Services with the approval of the State Public Works Board and the State Allocation Board may, notwithstanding any provision in Section 11011, transfer the land to a local school district at less than fair market value of the land, if the transfer is in the

public interest, under the following conditions:

(1) The land is suitable for use by a school district as a school site, school administration building site, school warehouse site, or other school use approved by the State Department of Education.

(2) The land is used by the school district for such purposes before a nonuse fee is required by Section 39015 of the Education Code or such later time as is approved by the State Department of Education, with a reversion to the state if not so used within the time prescribed.

(3) The deed or other instrument of transfer shall provide that the land shall revert to the state if the use is changed to a use not consistent with school purposes during the period of 25 years following the sale.

SEC. 2. Section 11011.9 of the Government Code is amended to read:

11011.9. (a) The Legislature finds and declares that:

(1) Disposition of surplus property owned by public agencies should be utilized to further state policies.

(2) There exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income can afford, and consequently there is a pressing and urgent need for the preservation and expansion of the supply of housing for such persons.

(3) The provision of decent housing for all Californians is a state goal of the highest priority. The disposal of surplus land is a direct and substantial public purpose of statewide concern and will serve an important public purpose, including mitigating the environmental effects of state activities. Therefore, it is the intent of the Legislature that priority be given in the disposal of surplus state land to housing for persons and families of low or moderate income, where such land is suitable for housing and there is a need for such housing in the community.

(4) There is an identifiable deficiency in the amount of recreational land available to the public for park, recreational, school, and open-space purposes, as well as for housing and general community development purposes in accord with state policies.

(b) It is the intent of the Legislature that surplus state property be disposed of in a manner which furthers state policies in the areas of parks, recreation, schools, open space, and housing and community development, or any combination thereof.

CHAPTER 749

An act to amend Section 5011 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 5011 of the Public Resources Code is amended to read:

5011. Any person receiving aid to the aged, blind, or disabled under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, any person over 65 years of age whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount specified in subdivision (c) of Section 12200 of the Welfare and Institutions Code for a single person or in subdivision (d) of that section for married persons, as adjusted pursuant to Section 12201 of that code, or any person receiving aid to families with dependent children under the provisions of Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, upon application therefor and payment of five dollars ($5.00) to the Department of Parks and Recreation, shall be issued a "Golden Bear Pass" which is valid for the specified year and which entitles the bearer and spouse to free use on any day of the day-use facilities in units of the state park system, except Hearst San Simeon State Historical Monument, Sutter's Fort State Historic Park, and the California State Railroad Museum, under limitations as may be determined by departmental regulation regarding peak hours and contractual arrangements with vendors. The pass shall entitle the bearer and spouse to have access only to day-use facilities and not to the use of any other facilities.

The department shall not grant half-price privileges or offer any discount for the use of state park system facilities on the basis of the pass authorized by this section.

SEC. 2. Section 1 of this bill shall not become operative if both this bill and AB 3113 are enacted, each bill amends Section 5011 of the Public Resources Code, and this bill is enacted after AB 3113.

CHAPTER 750

An act to add Section 21080.19 to the Public Resources Code, relating to environmental quality.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 21080.19 is added to the Public Resources Code, to read:

21080.19. This division does not apply to a project for restriping

of streets or highways to relieve traffic congestion.

CHAPTER 751

An act to amend Section 65865 of the Government Code, relating to development agreements.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 65865 of the Government Code is amended to read:

65865. (a) Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article. Every city, county, or city and county, shall, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

(b) A city, county, or city and county may recover from applicants the direct costs associated with adopting a resolution or ordinance to establish procedures and requirements for the consideration of development agreements.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 752

An act to amend Section 14026 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984]

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

SECTION 1. Section 14026 of the Welfare and Institutions Code is amended to read:

14026. (a) It is a misdemeanor for a Medi-Cal beneficiary to

furnish, give, or lend his Medi-Cal card or labels to any person other than a provider of service as required under Medi-Cal regulations.

(b) It is a misdemeanor for any person to use a Medi-Cal card other than the one which was issued to him or her to obtain health care services. This subdivision shall not apply to the use of a Medi-Cal card of a family member by another family member if the person using the card is, in fact, eligible under this chapter.

(c) This section shall not apply to any peace officer while investigating Medi-Cal fraud or other crimes in performance of his official duties or to any person working under the peace officer's immediate direction, supervision, or instruction when such peace officer has been issued a Medi-Cal card pursuant to Section 14026.5.

CHAPTER 753

An act to add and repeal Sections 211.1 and 10275.5 of the Health and Safety Code, relating to vital statistics, and making an appropriation therefor.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 211.1 is added to the Health and Safety Code, to read:

211.1. The Resource for Cancer Epidemiology of the State Department of Health Services shall investigate and formulate a set of options and implementation plans for utilizing the California Tumor Registry in epidemiological research on the effects of Agent Orange exposure on Vietnam veterans. The options and plans shall take into consideration the existing programs and capabilities of the Department of Veterans Affairs, and shall be reported to the Legislature by June 30, 1985.

This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1995, deletes or extends that date.

SEC. 2. Section 10275.5 is added to the Health and Safety Code, to read:

10275.5. (a) A certificate of death shall include information as to whether the decedent has performed military service and, if so, the period of military service.

(b) The sum of twenty-two thousand five hundred dollars ($22,500) is hereby appropriated from the General Fund to the Vital Statistics Branch of the State Department of Health Services to revise the certificate of death in accordance with this section.

(c) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which

is chaptered before January 1, 1995, deletes or extends that date.

SEC. 3. The Legislature finds and declares that the information provided pursuant to this act will be critical in future research on the health effects of exposure to herbicides, and in the establishment of potential claims for compensation by Vietnam veterans or others who served in Vietnam. The Legislature further finds and declares that a national study of the health problems of veterans exposed to atomic radiation proved to be inconclusive due to the unavailability of this type of information.

CHAPTER 754

An act to amend Section 48263 of, and to add Sections 48260.6 and 48263.5 to, the Education Code, and to amend Section 601.1 of, and to add Section 601.3 to, the Welfare and Institutions Code, relating to youths.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 48260.6 is added to the Education Code, to read:

48260.6. (a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

(1) The name of each pupil who has been classified as a truant.

(2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer is notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision

(a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

SEC. 2. Section 48263 of the Education Code is amended to read:

48263. If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board. The supervisor of attendance, or such other persons as the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

If the school attendance review board determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board may require, at such time as it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board shall submit to the juvenile court documentation of efforts to secure attendance as well as its

recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

SEC. 3. Section 48263.5 is added to the Education Code, to read:

48263.5. (a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

SEC. 4. Section 601.1 of the Welfare and Institutions Code is amended to read:

601.1. Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities, and is thus beyond the control of those authorities, or who is a habitual truant from school within the

meaning of any law of this state, shall, prior to any referral to the juvenile court of the county, be referred to a school attendance review board pursuant to Section 48263 of the Education Code, or to a truancy mediation program pursuant to Section 601.3 of this code, or to both a school attendance review board and a truancy mediation program if both have been established in the county.

SEC. 5. Section 601.3 is added to the Welfare and Institutions Code, to read:

601.3. (a) If the district attorney or the probation officer receives notice from the school district pursuant to subdivision (b) of Section 48260.6 of the Education Code that a minor continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5 of the Education Code, or if the district attorney or the probation officer receives notice from the school attendance review board pursuant to subdivision (a) of Section 48263.5 of the Education Code that a minor continues to be classified as a truant after review and counseling by the school attendance review board, the district attorney or the probation officer may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department to discuss the possible legal consequences of the minor's truancy.

(b) Notice of a meeting to be held pursuant to this section shall contain all of the following:

(1) The name and address of the person to whom the notice is directed.

(2) The date, time, and place of the meeting.

(3) The name of the minor classified as a truant.

(4) The section pursuant to which the meeting is requested.

(5) Notice that the district attorney may file a criminal complaint against the parents or guardians pursuant to Section 48293 of the Education Code for failure to compel the attendance of the minor at school.

(c) Notice of a meeting to be held pursuant to this section shall be served at least five days prior to the meeting on each person required to attend the meeting. Service shall be made personally or by certified mail with request for return receipt.

(d) At the commencement of the meeting authorized by this section, the district attorney or the probation officer shall advise the parents or guardians and the child that any statements they make could be used against them in subsequent court proceedings.

(e) Upon completion of the meeting authorized by this section, the district attorney may request the probation officer to file a petition, or the probation officer may file a petition, pursuant to Section 601 if the district attorney or the probation officer determines that available community resources cannot resolve the truancy problem, or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to services provided or to the directives of the school, the school attendance review board, the

probation officer, or the district attorney.

(f) The truancy mediation program authorized by this section may be established by the district attorney or by the probation officer. The district attorney and the probation officer shall coordinate their efforts and shall cooperate in determining which office is best able to operate a truancy mediation program in their county pursuant to this section.

CHAPTER 755

An act to add Section 1205.1 to the Health and Safety Code, relating to health facilities.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. The Legislature hereby finds and declares that unregulated competition in the dialysis field could produce a lower quality of health care as a result of overemphasis on cost reduction. The Legislature recognizes that the elimination of the certificate-of-need requirement for dialysis facilities may increase competition. Therefore, in enacting these provisions, it is the intent of the Legislature to require a study of dialysis facilities to help determine whether hardships will be imposed upon dialysis patients due to overemphasis on cost reduction or closure of facilities due to lack of market demand.

SEC. 2. Section 1205.1 is added to the Health and Safety Code, to read:

1205.1. The state department shall conduct a study regarding the need for additional licensure requirements for dialysis facilities, and shall submit a report to the Legislature on or before March 31, 1985, which shall include, but not be limited to, all of the following:

(a) An analysis of the number and type of new dialysis facilities which have opened in California since the repeal of the certificate-of-need requirement.

(b) An analysis of the impact, if any, of the elimination of the certificate-of-need requirement upon the quality of patient care provided by dialysis facilities.

(c) An analysis of the costs and benefits of requiring a new dialysis facility to submit a business plan for the proposed facility prior to receiving licensure from the department.

(d) An analysis of the costs and benefits of requiring a proposed dialysis facility to provide information demonstrating patient statistics which ensure a reasonable probability that the facility will be financially capable of remaining in business and providing high quality medical care throughout the initial five-year period of its

existence.

CHAPTER 756

An act to repeal and add Section 202 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 202 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 202 is added to the Welfare and Institutions Code, to read:

202. (a) The purpose of this chapter is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. When the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. This chapter shall be liberally construed to carry out these purposes.

(b) Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment and guidance consistent with their best interest and the best interest of the public. Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment and guidance which is consistent with their best interest, which holds them accountable for their behavior, and which is appropriate for their circumstances. Such guidance may include punishment that is consistent with the rehabilitative objectives of this chapter. Juvenile courts and other public agencies charged with enforcing, interpreting and administering the Juvenile Court Law shall consider the safety and protection of the public and the best interest of the minor in all deliberations pursuant to this chapter.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial ability of the parent to pay, during any period in which the minor may be declared a ward of the court and removed from the custody of the parent.

(d) Participants in the juvenile justice system shall hold themselves accountable for its results. They shall act in conformity

with a comprehensive set of objectives established to improve system performance in a vigorous and ongoing manner.

(e) As used in this chapter, "punishment" means the imposition of sanctions which include the following:

(1) Payment of a fine by the minor.

(2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.

(3) Limitations on the minor's liberty imposed as a condition of probation or parole.

(4) Commitment of the minor to a local detention or treatment facility, such as a juvenile hall, camp, or ranch.

(5) Commitment of the minor to the Department of the Youth Authority.

"Punishment," for the purposes of this chapter, does not include retribution.

CHAPTER 757

An act to amend Section 4211 of, and to add Article 3.5 (commencing with Section 4063) to Chapter 9 of Division 2 of, the Business and Professions Code, and to add Section 11159.1 to the Health and Safety Code, relating to pharmacy.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Article 3.5 (commencing with Section 4063) is added to Chapter 9 of Division 2 of the Business and Professions Code, to read:

Article 3.5. Clinic Permits

4063. Notwithstanding anything contained in this chapter, a licensed nonprofit community clinic or free clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of the Health and Safety Code may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the clinic. The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of seven years for inspection by all properly authorized personnel.

4063.1. No clinic shall be entitled to the benefits of Section 4063 until it has obtained a permit from the board. Each permit shall be issued to a specific clinic and for a specific location.

4063.2. (a) Each application for a permit under Section 4063

shall be made on a form furnished by the board. Upon the filing of the application and payment of the fee prescribed in subdivision (s) of Section 4416, the board shall make a thorough investigation to determine whether the applicant and the premises for which application for a permit is made qualify for a permit. The board shall also determine whether the provisions of this article have been complied with, and shall investigate all matters directly related to the issuance of the permit. The board shall not, however, investigate any matters connected with the operation of a premises, including operating hours, parking availability, or operating noise, except those matters relating to the furnishing, sale, or dispensing of drugs or devices. The board shall deny an application for a permit if either the applicant or the premises for which application for a permit is made do not qualify for a permit under this article.

(b) If the board determines that the applicant and the premises for which application for a permit is made qualify for a permit under this article, the executive officer of the board shall issue a permit authorizing the clinic to which it is issued to purchase drugs at wholesale pursuant to Section 4063. The permit shall be renewed annually on or before December 31 of each year upon payment of the renewal fee prescribed in subdivision (s) of Section 4416 and shall not be transferable.

4063.3. The form of application for a permit under Section 4063 shall contain the name and address of the applicant, whether the applicant is licensed as a primary care clinic as defined in this code, the name of its professional director, the name of its administrator, and the name of its consulting pharmacist.

4063.4. The board may revoke or suspend a permit issued under Section 4063 in the manner and for the grounds specified in Article 9 (commencing with Section 4350).

4063.5. Prior to the issuance of a clinic permit authorized under the provisions of Section 4063, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services relating to the drug distribution service to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation occur in a manner that is consistent with the promotion and protection of the health and safety of the public. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

These policies and procedures shall include a written description of the method used in developing and approving them and any revision thereof.

The dispensing of drugs in a clinic shall be performed only by a physician and surgeon, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

4063.6. Each clinic which makes an application for a permit

under the provisions of Section 4063 shall show evidence that the professional director is responsible for the safe, orderly, and lawful provisions of pharmacy services. In carrying out the professional director's responsibilities, a consulting pharmacist shall be retained, either on a volunteer or paid basis to approve the policies and procedures in conjunction with the professional director and the administrator. In addition, the consulting pharmacist shall be required to visit the clinic regularly and at least quarterly. However, nothing contained in this section shall prohibit the consulting pharmacist from visiting more than quarterly to review the application of policies and procedures based on the agreement of all the parties approving the policies and procedures.

The consulting pharmacist shall certify in writing at least twice a year that the clinic is, or is not, operating in compliance with the requirements of this article, and the most recent of those written certifications shall be submitted with the annual application for the renewal of a clinic permit.

4063.7. No clinic dispensing drugs pursuant to this article shall be eligible for any professional dispensing fee which may be authorized under provisions of the Medi-Cal program (Chapter 7 (commencing with Section 14000) or Part 3 of Division 9 of the Welfare and Institutions Code).

4063.8. No Schedule II controlled substance shall be dispensed by the clinic. This limitation shall not be construed to prohibit a licensed physician and surgeon from dispensing a Schedule II drug to the extent permitted by law.

4063.9. The board shall have the authority to inspect a clinic at any time in order to determine whether a clinic is, or is not, operating in compliance with the requirements of this article. If the board determines that a clinic is not operating in compliance with the requirements of this article, the board may revoke or suspend the clinic permit issued under Section 4063, or otherwise discipline the holder of that permit, in the manner specified in Article 9 (commencing with Section 4350).

4063.10. For the purposes of this article, "professional director" means a physician and surgeon acting in his or her capacity as medical director.

4063.11. This article shall become operative on July 1, 1985.

SEC. 2. Section 4211 of the Business and Professions Code is amended to read:

4211. "Dangerous drug" means any drug unsafe for self-medication, except veterinary drugs which are labeled as such, and includes the following:

(a) Any drug which bears the legend: "Caution: federal law prohibits dispensing without prescription" or words of similar import.

(b) Any device which bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," or words of similar import, the blank to be filled in with the designation of the

practitioner licensed to use or order use of the device.

(c) Any other drug or device which by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4240.

Neither this section, nor any other provision of law, prohibits the sale of devices to clinics which have been issued a clinic permit pursuant to Article 3.5 (commencing with Section 4063) of Chapter 9 or to skilled nursing facilities or intermediate care facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 3. Section 11159.1 is added to the Health and Safety Code, to read:

11159.1. An order for controlled substances furnished to a patient in a clinic which has a permit issued pursuant to Article 3.5 (commencing with Section 4063) of Chapter 9 of Division 2 of the Business and Professions Code, except an order for a Schedule II controlled substance, shall be exempt from the prescription requirements of this article but shall be in writing on the patient's record, signed by the prescriber, dated, and shall state the name and quantity of the controlled substance ordered and the quantity actually furnished. The record of the order shall be maintained as a clinic record for a minimum of seven years. This section shall apply only to a clinic that has obtained a permit under the provisions of Article 3.5 (commencing with Section 4063) of Chapter 9 of Division 2 of the Business and Professions Code.

Clinics that furnish controlled substances shall be required to keep a separate record of the furnishing of those drugs which shall be available for review and inspection by all properly authorized personnel.

CHAPTER 758

An act to amend Sections 21202, 21204, 21207, 21209, and 21213 of, to amend and repeal Section 10122 of, to add and repeal Section 20102 to, and to repeal and add Section 21206 of, the Public Contract Code, relating to public contracts.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984]

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

SECTION 1. Section 10122 of the Public Contract Code is amended to read:

10122. (a) Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to this part, except that it may be done by day's labor under the direction of the department, by contract upon informal bids, or by a combination

thereof:

(1) In case of emergency due to the failure or threat of failure of any bridge or other highway structure.

(2) In case of emergency due to the failure or threat of failure of any dam, reservoir, aqueduct, or other water facility or facility appurtenant thereto.

(3) In case of emergency due to damage to a state-owned building or any other state-owned real property or improvements located thereon, by an act of God, including, but not limited to, damage by storm, flood, fire or earthquake, for work and remedial measures which are required immediately.

(4) At any time after the approval of plans, specifications and estimates of cost, if the director deems the advertising or award of a contract, the acceptance of any bid, or the acceptance of any further bids after the rejection of all submitted bids, is not in the best interests of the state.

(b) Where plans and specifications have been prepared for a public project to be put out for formal or informal bid, and subsequently the department elects to perform the work by day's labor, the department shall perform the work in strict accordance with these same plans and specifications. Revisions of the plans and specifications may be made once a justification detailing the specific reasons for the change or changes has been approved by the director of the awarding department.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 10122 as added by Chapter 306 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 20102 is added to the Public Contract Code, to read:

20102. Notwithstanding any other provision of this part to the contrary, where plans and specifications have been prepared by a public agency, whose activities are subject to this part, in order for a public project to be put out for formal or informal bid, and, subsequently, the public agency elects to perform the work by day's labor, the public agency shall perform the work in strict accordance with these same plans and specifications.

Revisions of the plans and specifications may be made once a justification detailing the specific reasons for the change or changes has been approved by the public agency or its project director and a copy of the change and its justification is placed in the project file.

This section shall remain in effect only until January 1, 1991, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1991, deletes or extends such date.

SEC. 3. Section 21202 of the Public Contract Code is amended to read:

21202. (a) Public projects of fifteen thousand dollars ($15,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of fifty thousand dollars ($50,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than fifty thousand dollars ($50,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

SEC. 4. Section 21204 of the Public Contract Code is amended to read:

21204. Each public agency which elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 21100), shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 21202. The ordinance shall include all of the following:

(a) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission.

(b) All contractors on the list for the category of work being bid and/or all construction trade journals specified in Section 21206 shall be mailed a notice inviting informal bids unless the product or service is proprietary.

(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.

(d) The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

(e) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

SEC. 5. Section 21206 of the Public Contract Code is repealed.

SEC. 6. Section 21206 is added to the Public Contract Code, to read:

21206. The commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed notice of all informal and formal construction contracts being bid for work within the specified county.

SEC. 7. Section 21207 of the Public Contract Code is amended to read:

21207. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the public agency; or, if there is no newspaper printed and published within the jurisdiction of the public agency, in a newspaper of general

circulation which is circulated within the jurisdiction of the public agency, or, if there is no newspaper which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three places within the jurisdiction of the public agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. The notice inviting formal bids shall also be mailed to all construction trade journals specified in Section 21206. The notice shall be mailed at least 30 calendar days before the date of opening the bids. In addition to notice required by this section, the public agency may give such other notice as it deems proper.

SEC. 8. Section 21209 of the Public Contract Code is amended to read:

21209. The governing body of the public agency shall adopt plans, specifications, and working details for all public projects of more than fifty thousand dollars ($50,000).

SEC. 9. Section 21213 of the Public Contract Code is amended to read:

21213. In those circumstances as set forth in subdivision (a) of Section 21212, a request for commission review shall be in writing, sent by certified or registered mail received by the commission postmarked not later than five business days from the date the public agency has rejected all bids. In those circumstances set forth in subdivision (b) or (c) of Section 21212, a request for commission review shall be by letter received by the commission not later than five days from the date an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 30 days from the receipt of the request for commission review. During the review of a project that falls within subdivision (a) of Section 21212, the agency shall not proceed on the project until a final decision is received by the commission.

SEC. 10. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 759

An act to amend Sections 488.080 and 699.080 of, and to add Sections 488.065, 685.095, and 699.545 to, the Code of Civil Procedure, relating to registered process servers.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 488.065 is added to the Code of Civil Procedure, to read:

488.065. A copy of the original notice of attachment which has been served upon a third party holding the property sought to be attached, if served upon the defendant or any other party, shall suffice as the notice of attachment to that person.

SEC. 2. Section 488.080 of the Code of Civil Procedure is amended to read:

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455 or 488.465.

(9) Property in a safe-deposit box, pursuant to Section 488.460 or 488.465.

(10) Accounts receivable or general intangibles, pursuant to Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) Before levying under the writ of attachment, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do all of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Deliver any undertaking required by Section 488.465.

(3) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 488.610.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the levying officer under subdivision (d) except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (d).

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1032.8.

SEC. 2.5. Section 488.080 of the Code of Civil Procedure is amended to read:

488.080. (a) A registered process server may levy under a writ of attachment on the following types of property:

(1) Real property, pursuant to Section 488.315.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 488.325.

(3) Personal property in the custody of a levying officer, pursuant to Section 488.355.

(4) Equipment of a going business, pursuant to Section 488.375.

(5) Motor vehicles, vessels, mobilehomes, or commercial coaches used as equipment of a going business, pursuant to Section 488.385.

(6) Farm products or inventory of a going business, pursuant to Section 488.405.

(7) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(8) Deposit accounts, pursuant to Section 488.455.

(9) Property in a safe-deposit box, pursuant to Section 488.460.

(10) Accounts receivable or general intangibles, pursuant to Section 488.470.

(11) Final money judgments, pursuant to Section 488.480.

(12) Interest of a defendant in personal property in the estate of a decedent, pursuant to Section 488.485.

(b) Before levying under the writ of attachment, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 2 (commencing with Section 488.300).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 488.610 on a form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of attachment.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of attachment on other persons as required by Article 2 (commencing with Section 488.300).

(4) Instructions in writing, as required by the provisions of Section 488.030.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be attached. The levying officer is not liable for actions taken in conformance with the provisions of this title in reliance on information provided to the levying officer under subdivision (d) except to the extent that the levying officer has actual knowledge that the information is incorrect. Nothing in this subdivision limits any liability the plaintiff or registered process server may have if the levying officer acts on the basis of incorrect information provided under subdivision (d).

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1032.8.

SEC. 3. Section 685.095 is added to the Code of Civil Procedure, to read:

685.095. When a writ is served by a levying officer or registered process server, the costs for that service, as determined pursuant to Section 1032.8, shall be added to and become part of the judgment.

SEC. 4. Section 699.080 of the Code of Civil Procedure is amended to read:

699.080. (a) A registered process server may levy under a writ of execution on the following types of property:

(1) Real property, pursuant to Section 700.015.

(2) Growing crops, timber to be cut, or minerals or the like

(including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 700.020.

(3) Personal property in the custody of a levying officer, pursuant to Section 700.050.

(4) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(5) Deposit accounts, pursuant to Section 700.140 or 700.160.

(6) Property in a safe-deposit box, pursuant to Section 700.150 or 700.160.

(7) Accounts receivable or general intangibles, pursuant to Section 700.170.

(8) Final money judgments, pursuant to Section 700.190.

(9) Interest of a judgment debtor in personal property in the estate of a decedent, pursuant to Section 700.200.

(b) Before levying under the writ of execution, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do all of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 4 (commencing with Section 700.010).

(2) Deliver any undertaking required by Section 700.160.

(3) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 701.030.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of levy on other persons as required by Article 4 (commencing with Section 700.010).

(4) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court.

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1032.8.

SEC. 4.5. Section 699.080 of the Code of Civil Procedure is amended to read:

699.080. (a) A registered process server may levy under a writ of execution on the following types of property:

(1) Real property, pursuant to Section 700.015.

(2) Growing crops, timber to be cut, or minerals or the like (including oil and gas) to be extracted or accounts receivable resulting from the sale thereof at the wellhead or minehead, pursuant to Section 700.020.

(3) Personal property in the custody of a levying officer, pursuant to Section 700.050.

(4) Personal property used as a dwelling, pursuant to subdivision (a) of Section 700.080.

(5) Deposit accounts, pursuant to Section 700.140.

(6) Property in a safe-deposit box, pursuant to Section 700.150.

(7) Accounts receivable or general intangibles, pursuant to Section 700.170.

(8) Final money judgments, pursuant to Section 700.190.

(9) Interest of a judgment debtor in personal property in the estate of a decedent, pursuant to Section 700.200.

(b) Before levying under the writ of execution, the registered process server shall deposit a copy of the writ with the levying officer and pay the fee provided by Section 26721 of the Government Code.

(c) If a registered process server levies on property pursuant to subdivision (a), the registered process server shall do both of the following:

(1) Comply with the applicable levy, posting, and service provisions of Article 4 (commencing with Section 700.010).

(2) Request any third person served to give a garnishee's memorandum to the levying officer in compliance with Section 701.030 on a form provided by the registered process server.

(d) Within five days after levy under this section, all of the following shall be filed with the levying officer:

(1) The writ of execution.

(2) An affidavit of the registered process server stating the manner of levy performed.

(3) Proof of service of the copy of the writ and notice of levy on other persons as required by Article 4 (commencing with Section 700.010).

(4) Instructions in writing, as required by the provisions of Section 687.010.

(e) If the fee provided by Section 26721 of the Government Code has been paid, the levying officer shall perform all other duties under the writ as if the levying officer had levied under the writ and shall return the writ to the court. If the registered process server does not comply with subdivisions (b) and (d), the levy is ineffective and the levying officer is not required to perform any duties under the writ and may issue a release for any property sought to be levied upon.

(f) The fee for services of a registered process server under this section shall be allowed as a recoverable cost pursuant to Section 1032.8.

SEC. 5. Section 699.545 is added to the Code of Civil Procedure, to read:

699.545. A copy of the original notice of levy which has been

served upon a third party holding the property sought to be levied upon, if served upon the judgment debtor or any other party, shall suffice as the notice of levy to that person.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 488.080 of the Code of Civil Procedure proposed by both this bill and AB 2295. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 488.080 of the Code of Civil Procedure, and (3) this bill is enacted after AB 2295, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 699.080 of the Code of Civil Procedure proposed by both this bill and AB 2295. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 699.080 of the Code of Civil Procedure, and (3) this bill is enacted after AB 2295, in which case Section 4 of this bill shall not become operative.

CHAPTER 760

An act to amend Section 409 of the Code of Civil Procedure, relating to lis pendens.

[Approved by Governor August 24, 1984 Filed with Secretary of State August 27, 1984]

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

SECTION 1. Section 409 of the Code of Civil Procedure is amended to read:

409. (a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing a cross-complaint, or at any time afterwards, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to notices of action pending in courts of this state. From the time of filing such notice for record only, shall a purchaser or encumbrancer of the property affected thereby be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) In an action concerning real property or affecting the title or

the right of possession of real property, the clerk, or the judge if there is no clerk, shall issue a notice of pendency of action to a party requesting it, or an attorney of record in such an action may sign and issue a notice of pendency of action, or the person causing the notice of the pendency of the action to be recorded may obtain certification from the court in which the action is pending that an action concerning real property or affecting the title or the right of possession of real property has been filed between the named parties. Such a certification may issue ex parte. A notice of pendency of action may not be recorded, except by a public agency bringing an action in eminent domain pursuant to Title 7 (commencing with Section 1230.010) of Part 3, unless it is issued by the court, or issued by the attorney of record in the action or proceeding, or accompanied by a certified copy of the certification. The fee for issuance of the notice of pendency of action by the court, or making the certification, shall be as specified in Section 26836 of the Government Code.

(c) Except in actions brought under Title 7 (commencing with Section 1230.010) of Part 3, the person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be served upon the other party, by first-class mail, return receipt requested, mailed to all known addresses of the adverse parties and all owners of record as shown by the county assessor's office. A copy of the notice of the pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made immediately upon each adverse party who is later brought into the action pursuant to Section 472 or 473.

(d) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (c) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (c), then as to that party a declaration under penalty of perjury to such effect shall be recorded instead of the proof of service described above, and the service on that party shall not be required.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 761

An act to amend Section 832.6 of the Penal Code, relating to peace officers.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 832.6 of the Penal Code is amended to read:

832.6. (a) On or after January 1, 1981, every person deputized or appointed as described in subdivision (a) of Section 830.6 shall have the powers of a peace officer only when such person is:

(1) Deputized or appointed pursuant to paragraph (1) of subdivision (a) of Section 830.6 and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed the basic training prescribed by the Commission on Peace Officer Standards and Training.

A person deputized or appointed pursuant to paragraph (2) of subdivision (a) of Section 830.6 shall have the powers of a peace officer when assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training; or

(2) Assigned to the prevention and detection of crime and the general enforcement of the laws of this state while under the immediate supervision of a peace officer possessing a basic certificate issued by the Commission on Peace Officer Standards and Training, the person is engaged in a field training program approved by the Commission on Peace Officer Standards and Training, and the person has completed the course required by Section 832 and such other training prescribed by the commission; or

(3) Deployed and authorized only to carry out limited duties not requiring general law enforcement powers in their routine performance. Those persons shall be permitted to perform these duties only under the direct supervision of a peace officer possessing a basic certificate issued by the commission, and shall have completed the training required under Section 832 and any other training prescribed by the commission for those persons. Notwithstanding the provisions of this paragraph, a level III reserve officer may perform search and rescue, personnel administration support, community public information services, communications technician services, and scientific services, which do not involve direct law enforcement without supervision.

(b) Notwithstanding the provisions of subdivision (a), a person who is issued a level I reserve officer certificate before January 1,

1981, shall have the full powers and duties of a peace officer as provided by Section 830.1 if so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, if the appointing authority determines the person is qualified to perform general law enforcement duties by reason of the person's training and experience. Persons who were qualified to be issued the level I reserve officer certificate before January 1, 1981, and who state in writing under penalty of perjury that they applied for but were not issued the certificate before January 1, 1981, may be issued the certificate before July 1, 1984. For purposes of this section, certificates so issued shall be deemed to have the full force and effect of any level I reserve officer certificate issued prior to January 1, 1981.

(c) In carrying out the provisions of this section, the commission:

(1) May use proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(3) Shall establish a professional certificate for reserve officers as defined in paragraph (1) of subdivision (a) of this section, and may establish a professional certificate for reserve officers as defined in paragraphs (2) and (3) of subdivision (a) of this section.

(d) In carrying out paragraphs (1) and (3) of subdivision (c), the commission may establish and levy appropriate fees, provided the fees do not exceed the cost for administering the respective services. These fees shall be deposited in the Peace Officers' Training Fund established by Section 13520.

(e) The commission shall include an amount in its annual budget request to carry out the provisions of this section.

CHAPTER 762

An act to amend Section 23919 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 23919 of the Education Code is amended to read:

23919. Any retirant may be employed by a school district or other employing agency, except as provided in Sections 45134 and 88033, and earn not more than seven thousand five hundred dollars ($7,500), in any one school year and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable

duties. The employment shall not operate to reinstate the retirant as a member of this system, or to terminate or suspend his or her retirement allowance, and no deduction shall be made from his or her salary as contributions to this system.

The maximum amount earnable under this section shall be adjusted by the board on July 1, 1986, and on each July 1, thereafter, by 50 percent of the annual amount of increase in All Urban California Consumer Price Index using December 1984 as the base.

SEC. 2. Section 1 of this act shall become operative on July 1, 1985.

CHAPTER 763

An act to amend Section 24074 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 24074 of the Business and Professions Code is amended to read:

24074. Before the filing of such a transfer application with the department, if the intended transfer of the business or license involves a purchase price or consideration, the licensee and the intended transferee shall establish an escrow with some person, corporation, or association not a party to the transfer acting as escrow holder, and the intended transferee shall deposit with the escrow holder the full amount of the purchase price or consideration. The transfer application shall be accompanied by a description of the entire consideration. The description shall include a designation of cash, checks, promissory notes, and tangible and intangible property, and the amount of each thereof. The licensee and intended transferee shall also enter into an agreement, which agreement shall be deposited with the escrow holder, directing the escrow holder, after the requirements for transfer as provided in Section 24049 are satisfied, to pay out of the purchase price or consideration, whether the consideration takes the form of cash, checks, promissory notes, or tangible or intangible property, the claims of the bona fide creditors of the licensee who file their claims with the escrow holder before the escrow holder is notified by the department of its approval of the transfer of the license or if the purchase price or consideration is not sufficient to pay the claims in full, to distribute the consideration as follows:

First, to the United States for claims based on income or withholding taxes; and thereafter for claims based on any tax other than specified in Section 24049.

Second, to the payment of claims for wages, salaries, or fringe

benefits of employees of the seller or transferor earned or accruing prior to the sale, transfer, or opening of an escrow for the sale thereof.

Third, to the payment of claims of secured creditors to the extent of the proceeds which arise from the sale of the security; and to the payment of claims of a landlord, to the extent of proceeds on past due rent.

Fourth, to the payment of claims on mechanics' liens.

Fifth, to the payment of escrow fees and the payment of claims for prevailing brokerage fees for services rendered and claims for reasonable attorney's fees for services rendered.

Sixth, to the payment of claims for goods sold and delivered to the transferor for resale at his or her licensed premises and the payment of claims for services rendered, performed, or supplied in connection with the operation of the licensed business.

Seventh, to the payment of other claims which have been reduced to court ordered judgments, including claims for court ordered support of a minor child.

Eighth, to the payment of all other claims. The payment of these claims, if sufficient assets are not available for the payment of the claim in full, shall be paid pro rata.

If the transferor licensee disputes any claim, the escrow holder shall notify the claimant, and the amount or pro rata amount thereof shall be retained by the escrow holder for a period of 25 days, and if not attached shall be paid to the transferor licensee. The agreement shall also provide that the escrow holder shall make the payment or distribution within a reasonable time after the completion of the transfer of the license.

CHAPTER 764

An act to add Sections 16106, 16167, and 16208 to the Education Code, relating to school building aid and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 16106 is added to the Education Code, to read:

16106. Notwithstanding any other provision of law, any apportionment made subsequent to July 1, 1984, pursuant to this article, shall be made pursuant to the conditions and provisions contained in Chapter 22 (commencing with Section 17700) and all acts amendatory thereof and supplementary thereto.

SEC. 2. Section 16167 is added to the Education Code, to read:

16167. Notwithstanding any other provision of law, any

apportionment made subsequent to July 1, 1984, pursuant to this article, shall be made pursuant to the conditions and provisions of Chapter 22 (commencing with Section 17700) and all acts amendatory thereof and supplementary thereto.

SEC. 3. Section 16208 is added to the Education Code, to read:

16208. Notwithstanding any other provision of law, any apportionment made subsequent to July 1, 1984, pursuant to this article shall be made pursuant to the conditions and provisions of Chapter 22 (commencing with Section 17700) and all acts amendatory thereof and supplementary thereto.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide funds for capital outlay projects for needed classrooms as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 765

An act to add Section 6254.1 to the Government Code, relating to pesticides.

[Approved by Governor August 24, 1984. Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 6254.1 is added to the Government Code, to read:

6254.1. (a) Nothing in this chapter shall be construed as exempting from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under paragraph (1) of subsection (d) of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)), if the individual requesting the information is not an employee or agent specified in subdivision (h) and signs the affirmation specified in subdivision (h).

(b) The Director of Food and Agriculture, upon his or her initiative, or upon receipt of a request pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret.

(c) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(d) The registrant or applicant shall have 15 days after receipt of

this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(e) The director shall determine whether the data is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 30 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to the California Public Records Act of that determination by certified mail. If the director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to subdivision (a).

(f) "Trade secret" means data that is nondisclosable under paragraph (1) of subsection (d) of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(g) This section shall be operative only so long as, and to the extent that, enforcement of paragraph (1) of subsection (d) of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act has not been enjoined by federal court order, and shall become inoperative if an unappealable federal court judgment or decision becomes final that holds that paragraph invalid, to the extent of the invalidity.

(h) The Director of Food and Agriculture shall not knowingly disclose information submitted by an applicant or registrant pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in other countries in addition to the United States, or to any other person who intends to deliver this information to any foreign or multi-national business or entity, unless the applicant or registrant consents to this disclosure. To implement this subdivision the director shall require the following affirmation to be signed by the person who requests information pursuant to this section:

AFFIRMATION OF STATUS

This affirmation is required by Section 6254.1 of the Government Code.

I have requested access to information submitted by an applicant or registrant under the California Food and Agricultural Code. I hereby affirm all of the following:

(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in other countries in

addition to the United States, or to the agents or employees of such a business or entity.

(2) I will not purposefully deliver or negligently cause the data to be delivered to such a business or entity or its agents or employees.

I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.

Name	Organization
Signature	
Date Request No.	Address
Client, if you are requesting access on behalf of someone other than the organization or affiliation listed above.	

(i) Notwithstanding any other provision of this section, the Director of Food and Agriculture may disclose information submitted by an applicant or registrant to any person in connection with a public proceeding conducted under law or regulation, if the director determines that the information is needed to determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment.

(j) The director shall maintain records of the names of persons to whom data is disclosed pursuant to this section and the persons or organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.

(k) Section 118 of the Penal Code applies to any affirmation made pursuant to this section.

(*l*) Any officer or employee of the state or former officer or employee of the state who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this section, and who, knowing that disclosure of this material is prohibited by this section, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

For the purposes of this subdivision, any contractor with the state who is furnished information pursuant to this section, or any employee of any contractor, shall be considered an employee of the state.

(m) This section does not prohibit any person from maintaining a civil action for wrongful disclosure of trade secrets.

(n) The director may limit an individual to one request per

month pursuant to this section if the director determines that a person has made a frivolous request within the past 12-month period.

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

CHAPTER 766

An act to amend and repeal Sections 8505.5, 8525, 8620, and 8674 of, to add Sections 8616.4 and 8617.5 to, and to add and repeal Sections 8503.5, 8505.17, 8616, 8616.5, 8616.6, 8616.7, 8617, 8660, and 8662 of, the Business and Professions Code, and to amend and repeal Sections 12844, 14005, and 14006.6 of, to add and repeal Section 12845 of, and to add and repeal Chapter 7 (commencing with Section 15201) of Division 7 of, the Food and Agricultural Code, relating to structural pest control, and making an appropriation therefor.

[Approved by Governor August 24, 1984 Filed with Secretary of State August 27, 1984.]

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

SECTION 1. Section 8503.5 is added to the Business and Professions Code, to read:

8503.5. "Committee" means the Disciplinary Review Committee established pursuant to Section 8660.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 2. Section 8505.5 of the Business and Professions Code is amended to read:

8505.5. If requested, notice of the date and place of fumigation shall be given to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins.

If requested by the county agricultural commissioner, notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing the notice

which may be requested by the commissioner.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 8505.5 of the Business and Professions Code, as amended by Section 6 of Chapter 1201 the Statutes of 1961, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 8505.17 is added to the Business and Professions Code, to read:

8505.17. (a) There is hereby created in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Food and Agriculture for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 of this code and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Each pesticide use report or combination of use reports representing a structural pest control operator's total county pesticide use for the month, filed with a county agricultural commissioner pursuant to Section 14011.5 of the Food and Agricultural Code for applications performed under a structural pest control license shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

(e) Any amount remaining in the Structural Pest Control Education and Enforcement Fund upon the repeal of this section

shall, on or before December 31, 1986, be deposited to the credit of the Structural Pest Control Fund.

(f) This secton shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 4. Section 8525 of the Business and Professions Code is amended to read:

8525. The board, subject to the approval of the director, may, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

The board shall also consult with the Director of Food and Agriculture when developing or adopting regulations that may affect the Department of Food and Agriculture or the county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 8525 of the Business and Professions Code, as amended by Section 1 of Chapter 954 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 8616 is added to the Business and Professions Code, to read:

8616. Within 30 days of the effective date of this section, the Director of Food and Agriculture shall be designated by the board as its agent for the purposes of carrying out Section 8616.4. Within 120 days of the effective date of this section, the board and the Department of Food and Agriculture shall jointly develop a training program specifically relating to the various aspects of structural pest control and train all county agricultural commissioners and other personnel involved in structural pest control investigations and enforcement. No disciplinary action pursuant to Section 8617 may be taken by a county agricultural commissioner until training has been completed.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 5.5. Section 8616.4 is added to the Business and Professions Code, to read:

8616.4. The Director of Food and Agriculture shall designate county agricultural commissioners as his or her representatives to carry out the provisions of Sections 8616.5, 8616.7, and 8617. The Director of Food and Agriculture shall enter into a contract

specifying their responsibilities and providing for reimbursement in accordance with Section 8505.17.

SEC. 6. Section 8616.5 is added to the Business and Professions Code, to read:

8616.5. (a) The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

(b) The board and the Director of Food and Agriculture shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.

(c) As used in subdivision (a), the term "routine investigations" means all investigations of pesticide misuse by a board licensee except: (1) investigation of misuse incidents which are referred to the board for disciplinary action or which are the basis for county actions to suspend or fine structural pest control licensees in accordance with the lists promulgated pursuant to subdivision (b), or (2) any investigation performed by the county agricultural commissioner which has been requested by the board and involves exclusively a violation of this code.

(d) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 6.5. Section 8616.6 is added to the Business and Professions Code, to read:

8616.6. The Director of Food and Agriculture shall be notified by the board when it determines that persons acting pursuant to Sections 8616 and 8616.4 have not fulfilled their responsibilities under this chapter in a specific county or counties. The notice to the Director of Food and Agriculture, which shall be dealt with in a timely manner, shall specifically list the actions which caused the filing of the notice. If the notice is not dealt with in a manner satisfactory to the board, the board may then suspend the activities of its agent pursuant to Section 8616.5, who is subject to the notice in the specific county or counties for which the notice was filed for a period not to exceed 60 days.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 6.6. Section 8616.7 is added to the Business and Professions Code, to read:

8616.7. When a county agricultural commissioner is acting, pursuant to Section 8616.4, only the commissioner may conduct inspections and routine investigations pursuant to Section 8616.5 and take disciplinary action pursuant to Section 8617. Except as otherwise

provided, nothing in this section shall be construed as limiting or excluding the assistance provided to the board by the Division of Investigation under Sections 155 and 159.5 other than by board personnel.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 7. Section 8617 is added to the Business and Professions Code, to read:

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee to work in a county for up to three working days or may levy a fine up to five hundred dollars ($500) for each violation of this chapter, or any regulations adopted pursuant to this chapter, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural Code, or any regulations adopted pursuant to those chapters, relating to economic poisons. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the licensee's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a licensee's business in a county that was in violation.

(b) The licensee may appeal a fine or suspension to the Disciplinary Review Committee established in Section 8660 and shall be subject to the procedures in Section 8662.

(c) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the order shall be stayed until 20 days after the committee has ruled on the appeal.

(d) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(e) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 8. Section 8617.5 is added to the Business and Professions Code, to read:

8617.5. Regulations adopted pursuant to Section 11503 of the Food and Agricultural Code are not applicable to this chapter.

SEC. 8.5. Section 8620 of the Business and Professions Code is

amended to read:

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any person acting as, or making application for a license as, an operator or field representative.

After hearing, the board may temporarily suspend or permanently revoke a license issued under the provisions of this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board shall have the authority to assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In such a case the board may impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any such expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with the provisions of this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it shall be null and void and shall not constitute an admission of any violation charged.

(b) The civil penalty shall not be more than two thousand dollars ($2,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than five thousand dollars ($5,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section 8617, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

This section shall remain in effect only until January 1, 1987, and

as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 8620 of the Business and Professions Code, as amended by Section 1 of Chapter 289 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 9. Section 8660 is added to the Business and Professions Code, to read:

8660. A disciplinary review committee consisting of three members shall be established for the purposes of reviewing appeals of orders issued pursuant to Section 8617. The committee shall be made up of one member representing the Director of Food and Agriculture and one member representing the board. The third member shall be a licensed pest control operator actively involved in the business of pest control and shall be selected by agreement of the other members.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 10. Section 8662 is added to the Business and Professions Code, to read:

8662. (a) Whenever the right of a structural pest control licensee to make pesticide applications has been suspended or the licensee has been fined pursuant to Section 8617, the party suspended or fined may appeal to the Disciplinary Review Committee within 10 days of receipt of the fine or suspension order.

(b) The following procedures shall apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, present written evidence to the committee. Thereafter, 10 days shall be given the parties to rebut the written evidence and make written application to the committee to present oral or written arguments.

(3) An application to present written arguments shall be granted, but the committee shall have discretion to grant oral arguments or to grant both oral and written arguments. Further written argument shall be submitted to the committee within 10 days of the submission of the application.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given each party at least 10 days before the date set therefor. The times may be altered by mutual agreement of the parties. If a written argument is submitted, all parties shall be notified thereof and shall be given the opportunity to simultaneously file briefs within the time specified by the committee.

(5) At any time written evidence, including evidence in rebuttal,

is submitted to the committee, a copy shall be immediately provided to the other party.

(6) The committee shall decide the appeal on any oral or written argument, briefs, and evidence that the committee may have received.

(7) The committee shall render its written decision within 45 days of the date of appeal or within 15 days from the date of oral arguments or the filing of briefs pursuant to paragraph (4). If the committee does not reach a decision in the time required in this subdivision, the order issued pursuant to Section 8617 shall be null and void.

(8) On an appeal pursuant to this section, the committee may sustain, modify by reducing the time of suspension or the amount of the fine levied, or reverse the decision. A copy of the committee's decision shall be delivered or mailed to each party.

(9) Review of the decision of the committee may be sought by the licensee pursuant to Section 1094.5 of the Code of Civil Procedure.

(c) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 10.5. Section 8674 of the Business and Professions Code is amended to read:

8674. The amount of the fees prescribed by this chapter is that fixed by the following schedules.

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than fifty dollars ($50).

(e) An operator's license renewal fee of not more than fifty dollars ($50) per year for each triennial renewal period.

(f) A principal office registration fee of not more than fifty dollars ($50).

(g) A principal office registration renewal fee of not more than fifty dollars ($50) per year for each triennial renewal period.

(h) A branch office registration fee of not more than twenty-five dollars ($25).

(i) A branch office registration renewal fee of not more than twenty-five dollars ($25) per year for each triennial renewal period.

(j) A field representative examination fee of not more than fifteen dollars ($15).

(k) A field representative license fee of not more than fifteen dollars ($15).

(*l*) A field representative license renewal fee of not more than fifteen dollars ($15) per year for each triennial renewal period.

(m) An applicator examination fee of not more than fifteen dollars ($15).

(n) An inspection report filing fee of not more than three dollars

($3).

(o) A fee for certifying a copy of an inspection report of not more than three dollars ($3).

(p) A fee for filing a notice of work completed of not more than two dollars ($2).

(q) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a structural pest control operator's total county pesticide use for the month.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 8674 of the Business and Professions Code, as amended by Section 10 of Chapter 360 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 11. Section 12844 of the Food and Agricultural Code is amended to read:

12844. Notwithstanding Section 12784, the director shall pay five-eighths of the money received pursuant to this article to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of the provisions of Division 6 (commencing with Section 11401) and Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101) of this division.

The development of regulations pursuant to this section shall be the joint and mutual responsibility of the director and the county agricultural commissioners. After public hearing, the director shall adopt regulations specifying the criteria to be used in allocating pesticide mill assessment funds to the counties based upon each county's pest control activities, costs, workload, and performance. The criteria shall include, but is not limited to, the following:

(a) The effectiveness of the pesticide use enforcement program in each county.

(b) The number, comprehensiveness, and effectiveness of pest control inspections performed in each county.

(c) The number of licensed pest control advisers, pesticide dealers, pest control operators, and other persons, firms, and agencies using pesticides in each county.

(d) The work hours expended by certified pesticide use enforcement personnel in each county.

(e) The total amount of dollars expended by each county relating to pesticide regulatory activities.

(f) The number of private applicators certified in each county.

(g) The volume and type of pesticides used and the number of pesticide applications in each county.

SEC. 11.5. Section 12844 of the Food and Agricultural Code, as added by Section 2 of Chapter 1052 of the Statutes of 1978, is

repealed.

SEC. 12. Section 12845 is added to the Food and Agricultural Code, to read:

12845. Notwithstanding Section 12784, the funds paid to the counties under Section 12844 shall also be considered as reimbursement for costs incurred by the counties in the administration and enforcement of Chapter 7 (commencing with Section 15201).

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 12.5. Section 14005 of the Food and Agricultural Code is amended to read:

14005. Except as provided in subdivision (d) of Section 14006.6 the director, after investigation and hearing, shall adopt regulations which govern the possession and use of any restricted material which he or she finds and determines is injurious to the environment, or to any person, animal, crop, or other property.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 14005 of the Food and Agricultural Code, as amended by Section 12 of Chapter 1276 of the Statutes of 1971, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 13. Section 14006.6 of the Food and Agricultural Code, as amended by Chapter 378 of the Statutes of 1983, is amended to read:

14006.6. (a) A permit shall not be required for the agricultural use of any pesticide not designated as a restricted material unless the commissioner determines that its use will present an undue hazard when used under local conditions.

(b) Permits for the use of pesticides shall not be required of persons found to be qualified by the director who are engaged in experimentation or research on the use of pesticides, where no charge is made to the person in charge of the property treated.

(c) A permit shall not be required for the possession of pesticides by a registrant, as defined in Section 12755, or by a licensed pesticide dealer when operating pursuant to the registration or the license; by commercial warehouses storing pesticides; or for the possession and use of these materials when specifically exempted by regulation of the director in cases in which the mitigation measures provided by the permit system are not necessary to avoid injury to the environment, or to any person, animal, crop, or property.

(d) Permits for the use of pesticides shall not be required of persons operating pursuant to a license issued under Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code.

(e) This section shall remain in effect only until January 1, 1987,

and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 14006.6 of the Food and Agricultural Code, as amended by Section 2 of Chapter 378 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 14. Chapter 7 (commencing with Section 15201) is added to Division 7 of the Food and Agricultural Code, to read:

CHAPTER 7. STRUCTURAL PEST CONTROL

15201. The Legislature hereby finds and declares that it is the joint responsibility of the Department of Food and Agriculture, the commissioner of each county under the direction and supervision of the director, and the Structural Pest Control Board to regulate the activities of structural pest control licensees. The Structural Pest Control Board has responsibility for licensing persons and companies engaged in structural pest control work. The department has primary responsibility for enforcing pesticide laws and regulations.

15202. In addition to the enforcement authority granted to the director and commissioners by this code, a commissioner, when acting pursuant to Section 8616.4 of the Business and Professions Code, may suspend the right of a structural pest control licensee to make pesticide applications in the county for up to three working days or levy a fine as specified in Section 8617 of the Business and Professions Code. Appeals from these actions shall be to the Disciplinary Review Committee according to the procedures provided in Section 8662 of the Business and Professions Code.

15203. The director may adopt regulations to carry out the provisions of this chapter. The director shall consult with the Structural Pest Control Board when developing regulations that pertain to the use of pesticides by structural pest control licensees.

15204. (a) Each licensed structural pest control operator shall notify the commissioner prior to operating a structural pest control business in the county. The notification shall cover a calendar year, unless a shorter time is specified by the structural pest control licensee. A fee may also be required at the time of notification. The fee shall be set by the county board of supervisors, except that in no case shall the fee exceed the actual cost of processing the notification or ten dollars ($10), whichever is less.

(b) Each notification shall be in a form prescribed by the director after consulting with the Structural Pest Control Board and commissioners and shall be limited to the structural pest control licensee's name and address (including each place of business in the county), telephone numbers, responsible persons, and the type of pest control to be conducted.

(c) Each structural pest control licensee who intends to conduct fumigation operations may be required to appear in person at the

office of the commissioner to complete notification.

(d) If ordered by the commissioner, other structural pest control licensees shall appear in person at the office of the commissioner to complete notification.

15205. (a) Each structural pest control licensee shall make all existing records pertaining to pesticide use available to the director or commissioner upon demand at the operator's place of business during normal business hours. A structural pest control licensee may not prohibit onsite inspection for compliance with the Business and Professions Code and this division regarding pesticides and regulations adopted pursuant thereto. Except as provided in Section 8505.5 of the Business and Professions Code, nothing in this section shall be construed as requiring a licensee to provide advance notice of the date, time, location of the application, type of application, or any other related information unless the information is contained in existing records available to the licensee, in which case the director or commissioner may require that this information be produced at the operator's place of business.

(b) Information and documents gathered by the director or the commissioner pursuant to this section which are not public records as defined by Sections 6254 and 6255 of the Government Code shall remain confidential while in the director's or the commissioner's possession.

15206. If the director receives a notice pursuant to Section 8616.6 of the Business and Professions Code, he or she shall investigate the actions which caused the filing of the notice and take appropriate action as authorized in this code.

15206.5. Regulations adopted pursuant to Section 11503 are not applicable to this chapter.

15206.6. The director and the Structural Pest Control Board shall jointly develop and concur in the list of the types of violations that the commissioners shall refer to the board for disciplinary action.

15207. This chapter shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 14.5. The sum of fifty thousand dollars ($50,000) is appropriated from the Structural Pest Control Fund to the Structural Pest Control Education and Enforcement Fund and from the Structural Pest Control Education and Enforcement Fund to the Structural Pest Control Board for the purposes set forth in subdivision (a) of Section 8505.17 of the Business and Professions Code. Money deposited in the Structural Pest Control Education and Enforcement Fund pursuant to Section 8505.17 of the Business and Professions Code shall be used by the Structural Pest Control Board to reimburse the Structural Pest Control Fund for the appropriation made in this section.

SEC. 15. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction and because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 767

An act to amend Section 31838.5 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 31838.5 of the Government Code is amended to read:

31838.5. No provision of this chapter shall be construed to authorize any member, credited with service in more than one entity and who is eligible for a disability allowance, whether service connected or nonservice connected to receive an amount from one county that, when combined with any amount from other counties or the Public Employees' Retirement System, results in a disability allowance greater than the amount the member would have received had all the member's service been with only one entity.

In cases of service-connected disability allowances only, the limitation on disability allowances provided for in this section shall apply to service-connected disability allowances payable to those who, after being employed with another county or an entity within the Public Employees' Retirement System, become employed by a second public entity on or after January 1, 1984.

Each entity shall calculate its respective obligations based upon the member's service with that entity and each shall adjust its payment on a pro rata basis.

CHAPTER 768

An act to amend Sections 752 and 754 of the Evidence Code, relating to interpreters for the deaf.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 752 of the Evidence Code is amended to read:

752. (a) When a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter whom he or she can understand and who can understand him or her shall be sworn to interpret for him or her.

(b) The record shall identify the interpreter who may be appointed and compensated as provided in Article 2 (commencing with Section 730) of Chapter 3.

SEC. 2. Section 754 of the Evidence Code is amended to read:

754. (a) As used in this section, "deaf person" means a person with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone.

(b) In any civil or criminal action, including any action involving a traffic or other infraction or any juvenile court proceeding, or any proceeding to determine the mental competency of a person, or any administrative hearing, where a party or witness is a deaf person and the deaf person is present in court and participating, the proceedings shall be interpreted in a language that the deaf person understands by a qualified interpreter appointed by the court, tribunal, or hearing officer, or as agreed upon by the parties.

(c) For the purposes of this section, "qualified interpreter" means only a person who meets both of the following criteria:

(1) Has been issued a certificate of competency by the National Registry of Interpreters for the Deaf, or by a state group affiliated with the National Registry of Interpreters for the Deaf, or by any other group determined by the Judicial Council to possess a level of competence in training, testing, and certification of interpreters for the deaf equivalent to that of the National Registry of Interpreters for the Deaf, which certificate has been determined by the issuing agency to be appropriate for the purpose of interpreting the proceedings specified in subdivision (b).

(2) Has been included on a list of recommended court interpreters which shall be established by the superior court in each county.

(d) In the event that the only available interpreter is not considered to possess adequate interpreting skills for the particular situation, or the interpreter is not familiar with use of slang, the deaf person may be permitted by the court, tribunal, or hearing officer to nominate another person to act as intermediary between himself or herself and the appointed qualified interpreter during the proceedings.

(e) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which such action is pending. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board, agency, commission, or licensing authority.

(f) No statement, written or oral, made by a person who is deaf in reply to a question of a peace officer, or any other person having prosecutorial function in any criminal or quasi-criminal proceeding, may be used against that deaf person unless either the statement was made or elicited through a qualified interpreter and was made knowingly, voluntarily, and intelligently, or the court makes a special finding that the statement was made knowingly, voluntarily, and intelligently.

(g) In any action or proceeding in which a deaf person is a participant, the court or administrative authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the deaf person or persons involved as participants.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 769

An act to amend Sections 725, 2292, and 2294 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 725 of the Business and Professions Code is amended to read:

725. Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.

Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both the fine and imprisonment.

SEC. 2. Section 2292 of the Business and Professions Code is amended to read:

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

(b) The matter shall be presented by the board's Executive Director or his or her designee by way of a written petition detailing the reasonable cause. A copy of the petition shall be served on the physician who shall have the opportunity to file written opposition to the petition within 45 days after service. Service of the petition and any orders shall be in accordance with the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

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

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

SEC. 3. Section 2294 of the Business and Professions Code is

amended to read:

2294. If the division determines there is insufficient cause to file an accusation based on the examination results, then all agency records of the proceedings, including the petition and order for the examination, investigative reports, if any, reports of staff or outside medical consultants, and the reports of the examiners, shall be kept confidential and shall not be subject to discovery or subpoena.

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

CHAPTER 770

An act to amend Section 25663 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 25663 of the Business and Professions Code is amended to read:

25663. (a) Every person who employs or uses the services of any person under the age of 21 years in or on that portion of any premises, during business hours, which are primarily designed and used for the sale and service of alcoholic beverages for consumption on the premises is guilty of a misdemeanor.

(b) Any off-sale licensee who employs or uses the services of any person under the age of 18 years for the sale of alcoholic beverages shall be subject to suspension or revocation of his or her license, except that a person under the age of 18 years may be employed or used for those purposes if that person is under the continuous supervision of a person 21 years of age or older.

CHAPTER 771

An act to add Section 20009.10 to the Government Code, relating to public employee retirement.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 20009.10 is added to the Government Code, to read:

20009.10. "Public agency" also includes the Tahoe transportation district which is established by Article IX of Section 66801.

CHAPTER 772

An act to repeal Section 8899.5 of the Government Code, relating to seismic safety.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 8899.5 of the Government Code is repealed.

CHAPTER 773

An act to amend Section 656 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 656 of the Unemployment Insurance Code is amended to read:

656. "Employment" does not include professional services performed by a consultant working as an independent contractor.

For the purpose of this section, there shall be a rebuttable presumption that services provided by an individual engaged in work requiring specialized knowledge and skills attained through completion of recognized courses of instruction or experience are rendered as an independent contractor. These services shall be limited to those provided by attorneys, physicians, dentists, engineers, architects, accountants, and the various types of physical, chemical, natural, and biological scientists. Professional services shall not include services generally provided by persons who do not have a degree from a four-year institution of higher learning relating to the specialized knowledge and skills of the professional service being provided.

For the purposes of this section, the rebuttable presumption shall not apply to an individual who enters into a contract agreement with

the recipient of the professional services which establishes an employer-employee relationship. However, the existence of a contract between a nonprofit, licensed, primary care clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, and a health care practitioner who is licensed as a physician and surgeon, osteopath, podiatrist, optometrist, or psychologist shall not constitute an employer-employee relationship if the contract stipulates that the professional services rendered to the clinic are by an independent contractor, not an employee. Independent contractors who conform to the provisions of this section or primary care clinics which contract with these individuals or organizations shall not be liable for any payments that may be required under an employer-employee relationship pursuant to this code.

CHAPTER 774

An act to amend Section 25402.1 of the Public Resources Code, relating to energy resources.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(c) Certify, no later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and

builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(d) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(e) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(f) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior

to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(g) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(h) If a dispute arise between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(i) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they

existed prior to September 16, 1977.

CHAPTER 775

An act to add Section 69906 to the Government Code, and to amend Section 270 of the Welfare and Institutions Code, relating to probation officers.

[Approved by Governor August 27, 1984 Filed with Secretary of State August 28, 1984]

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

SECTION 1. Section 69906 is added to the Government Code, to read:

69906. Notwithstanding Section 270 of the Welfare and Institutions Code, in Mendocino County the offices of assistant probation officer and deputy probation officer, or either of them, shall exist only if established by an ordinance adopted by the board of supervisors; and the probation officer may appoint one or more deputy or assistant probation officers only if the positions have been authorized by the board of supervisors.

SEC. 2. Section 270 of the Welfare and Institutions Code is amended to read:

270. Except as provided in Section 69906 of the Government Code, there shall be in each county the offices of probation officer, assistant probation officer, and deputy probation officer. A probation officer shall be appointed in every county.

Probation officers in any county shall be nominated by the juvenile justice commission or regional juvenile justice commission of such county in such manner as the judge of the juvenile court in that county shall direct, and shall then be appointed by such judge.

The probation officer may appoint as many deputies or assistant probation officers as he desires; but such deputies or assistant probation officers shall not have authority to act until their appointments have been approved by a majority vote of the members of the juvenile justice commission, and by the judge of the juvenile court. The term of office of each such deputy or assistant probation officer shall expire with the term of the probation officer who appointed him, but the probation officer, with the written approval of the majority of the members of the juvenile justice commission and of the judge of the juvenile court, may, in his discretion, revoke and terminate any such appointment at any time.

Probation officers may at any time be removed by the judge of the juvenile court for good cause shown; and the judge of the juvenile court may in his discretion at any time remove any such probation officer with the written approval of a majority of the members of the juvenile justice commission.

CHAPTER 776

An act to repeal and add Section 5600.05 of the Business and Professions Code, relating to architects.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 5600.05 of the Business and Professions Code is repealed.

SEC. 2. Section 5600.05 is added to the Business and Professions Code, to read:

5600.05. The board shall notify licensees of the availability of abstract and other informational materials on requirements for interior and exterior barrier free design to permit access and usability of the architectural environment by the physically handicapped.

CHAPTER 777

An act to add Section 815.10 to the Civil Code, relating to conservation easements.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 815.10 is added to the Civil Code, to read:

815.10. A conservation easement granted pursuant to this chapter constitutes an enforceable restriction, for purposes of Section 402.1 of the Revenue and Taxation Code.

SEC. 2. This act is declaratory of existing law.

CHAPTER 778

An act to repeal Article 1 (commencing with Section 1350) of Chapter 3 of Part 4 of Division 2 of the Labor Code, relating to female employees.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Article 1 (commencing with Section 1350) of Chapter 3 of Part 4 of Division 2 of the Labor Code is repealed.

CHAPTER 779

An act to amend Sections 5902, 12515, and 40000.11 of, and to add Sections 4150.1 and 34501.2 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 4150.1 is added to the Vehicle Code, to read:

4150.1. In addition to the requirements of Section 4150, application for the original registration of a commercial motor vehicle specified in Section 34500 shall include a declaration, made by the owner to the department upon the appropriate form furnished by it, that the owner is aware of the applicable motor carrier safety regulations adopted by the Department of the California Highway Patrol pursuant to Section 34501.

A fleet owner may make this declaration on a single form for all commercial motor vehicles registered in the fleet owners's name.

SEC. 2. Section 5902 of the Vehicle Code is amended to read:

5902. (a) Whenever any person has received as transferee a properly endorsed certificate of ownership and the registration card of the vehicle described in the certificate and card, that person shall, within 10 days thereafter, forward the certificate and card with the proper transfer fee to the department and thereby make application for a transfer of registration.

(b) Whenever any person applies for transfer of registration on a certificate of ownership issued for the year of last registration, the registration card need not be surrendered.

(c) An application for a transfer of registration of a commercial motor vehicle specified in Section 34500 shall include a declaration, made by the owner to the department upon the appropriate form furnished by it, that the owner is aware of the applicable motor carrier safety regulations adopted by the Department of the California Highway Patrol pursuant to Section 34501. A fleet owner may make this declaration on a single form for all commercial motor vehicles registered in the fleet owner's name.

SEC. 3. Section 12515 of the Vehicle Code is amended to read:

12515. (a) No person under the age of 18 years shall be employed for compensation by another for the purpose of driving a motor vehicle on the highways.

(b) No person under the age of 21 years shall be employed for

compensation by another to drive, and no person under the age of 21 years may drive, a motor vehicle specified in Section 34500 that is engaged in interstate commerce or the transportation of hazardous substances or wastes.

SEC. 4. Section 34501.2 is added to the Vehicle Code, to read:

34501.2. (a) The regulations adopted pursuant to Section 34501, except as provided in this subdivision and subdivision (b), shall establish limitations on driving hours for motor vehicles subject thereto that are consistent with the hours-of-service requirements adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended. Driving hours and on-duty status shall not begin following less than eight consecutive hours off duty. Drivers' hours shall be regulated from the time a driver first reports for duty for any employer.

(b) The regulations adopted pursuant to Section 34501 shall establish the following exceptions to subdivision (a):

(1) A driver may be permitted or required to drive for more than the number of hours specified in subdivision (a) if the excess hours are due to snow, sleet, fog, or other adverse conditions of weather, road, or traffic. This extended driving period shall be permitted even though the adverse conditions were known before the trip began.

(2) In the event of a traffic accident, medical emergency, or disaster, a driver may complete the trip if the trip could reasonably have been completed under normal conditions within the time specified in subdivision (a).

(3) Other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined appropriate by the Department of the California Highway Patrol.

(4) The maximum driving time within a work period is 12 hours if the vehicle is engaged solely in intrastate commerce and is not transporting hazardous substances or hazardous wastes as defined by regulations of the United States Department of Transportation in Section 171.8 of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended.

SEC. 5. Section 40000.11 of the Vehicle Code is amended to read:

40000.11. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Division 5 (commencing with Section 11100), relating to occupational licensing and business regulations.

(b) Section 12500, subdivision (a), relating to unlicensed drivers.

(c) Section 12515, subdivision (b), relating to persons under 21 years of age driving, and the employment of those persons to drive, vehicles engaged in interstate commerce or transporting hazardous substances or wastes.

(d) Section 12517, relating to a special driver's certificate to operate a schoolbus or school pupil activity bus.

(e) Section 12519, subdivision (a), relating to a special driver's certificate to operate a farm labor vehicle.

(f) Section 12804, subdivision (d), relating to medical certificates.

(g) Section 12951, subdivision (b), relating to refusal to display license.

(h) Section 13004, relating to unlawful use of identification card.

(i) Section 14601, relating to driving when suspended.

(j) Section 14601.1, relating to driving when suspended.

(k) Section 14601.2, relating to driving when suspended.

(*l*) Section 14610, relating to unlawful use of driver's license.

(m) Section 15501, relating to use of false or fraudulent license by minor.

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

CHAPTER 780

An act to amend Section 14311 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 14311 of the Welfare and Institutions Code is amended to read:

14311. Prepaid health plans, the services they provide, and the persons receiving these services shall not be subject to the limitations on services set forth in Section 14133, 14133.1, 14133.25, or 14133.3 or subdivisions (c), (d), and (e) of Section 14120, or subdivision (c) of Section 14105. Notwithstanding this section, the requirements set forth in Section 14301 for the determination of prospective per capita rates of payment for services provided under this chapter to Medi-Cal beneficiaries enrolled in a prepaid health plan shall remain unchanged.

Nothing in this section or in Article 7 (commencing with Section 14490) shall relieve the director of his responsibility to provide the benefits provided for in Section 14132. Where a contract between the department and a prepaid health plan does not require the prepaid health plan to provide a benefit to which a Medi-Cal recipient is otherwise entitled, the recipient shall be entitled to receive such benefit pursuant to Chapter 7 (commencing with Section 14000) of this part.

CHAPTER 781

An act to amend Section 45277 of the Education Code, relating to classified employees.

[Approved by Governor August 27, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 45277 of the Education Code is amended to read:

45277. Appointments may be made from other than the first three ranks of applicants on the eligibility list when the ability to speak, read, or write a language in addition to English or possession of a valid driver's license is a requirement of the position to be filled. The recruitment bulletin announcing the examination shall indicate the special requirements which may be necessary for filling one or more of the positions in the class. Where such a position is to be filled, using the authority of this section, the appointment shall be made from among the highest three ranks of applicants on the appropriate eligibility list who meet the special requirements and who are ready and willing to accept the position.

If there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments which may accumulate to a total of 90 working days. Successive provisional appointments of 90 working days or less each may be made in the absence of an appropriate eligibility list containing applicants who meet the special requirements if the personnel commission finds that the requirements of subdivisions (a) and (b) of Section 45288 have been met. These appointments may continue for the period of the provisional appointment, but may not be additionally extended if certification can later be made from an appropriate eligibility list.

CHAPTER 782

An act relating to state-mandated local program claims.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 28, 1984]

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

SECTION 1. The Controller, when conducting audits of local public agency workers' compensation state-mandated local program claims for Chapter 1023 of the Statutes of 1973 and Chapter 1017 of the Statutes of 1976, shall allow any payment made to a local agency

for reimbursement of its 1978–79 through 1981–82 fiscal years' costs for compromise and release cases if in computing reimbursable costs the local agency used either the applicable weekly temporary disability rate or the weekly permanent total disability rate whenever the formula provided by the Controller in the claiming instructions specified use of the weekly benefit rate per Section 4460 of the Labor Code.

CHAPTER 783

An act to add Section 2750.6 to the Labor Code, relating to employment.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 2750.6 is added to the Labor Code, to read:

2750.6. There is a rebuttable presumption affecting the burden of proof that a physician and surgeon, licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who enters into a contract for the performance of health services on behalf of a licensed primary care clinic, as defined in paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, is an independent contractor rather than an employee. Nothing in this section shall authorize the employment of a physician and surgeon to provide professional services when the employment would violate any other provision of law.

CHAPTER 784

An act to amend Sections 6213 and 6216 of, to add Section 6214.5 to, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 6213 of the Business and Professions Code is amended to read:

6213. As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in

California which provides as its primary purpose and function legal services without charge to indigent persons and which has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California which meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars ($20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center, which has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a project which provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(e) "Fee generating case" means any case or matter which, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the

area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (Public Law 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (Public Law 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act of 1975, as amended (Public Law 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 2. Section 6214.5 is added to the Business and Professions Code, to read:

6214.5. A law school program that meets the definition of a "qualified legal services project" as defined in paragraph (2) of subdivision (a) of Section 6213, and that applied to the State Bar for funding under this article not later than February 17, 1984, shall be deemed eligible for all distributions of funds made under Section 6216.

SEC. 3. Section 6216 of the Business and Professions Code is amended to read:

6216. The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program,

including any costs incurred after the adoption of this article and a reasonable reserve therefor.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be

distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.

CHAPTER 785

An act to add Section 13511.5 to the Penal Code, relating to peace officer training, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 13511.5 is added to the Penal Code, to read:

13511.5. Each applicant for admission to a basic course of training certified by the Commission on Peace Officer Standards and Training who is not sponsored by a local or other law enforcement agency, or is not a peace officer employed by a state or local agency, department, or district, shall be required to submit written certification from the Department of Justice pursuant to Sections 11122, 11123, and 11124 that the applicant has no criminal history background which would disqualify him or her, pursuant to Section 12021, from owning, possessing, or having under his or her control any pistol, revolver, or other firearm capable of being concealed on the person.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

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

Convicted felons who have been barred from the possession of dangerous weapons are enrolling in Peace Officer Standards and Training (POST) Certified Basic Training given at publicly supported community colleges where intensive training in use of handguns, shotguns, and police weapons tactics occurs. Such enrollment endangers the instructors and other students in these

POST Certified Basic Courses, increases these institutions' insurability risks, and endangers the public safety.

CHAPTER 786

An act to amend Section 6359.6 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 28, 1984.]

I am reducing the appropriation contained in Section 2 of Senate Bill No. 1554 from $34,000 to $14,000

The $34,000 appropriation represents reimbursement for local sales tax losses for a whole year. The reduced appropriation reflects the fact that the bill will not be operative until January 1, 1985.

With this reduction, I approve Senate Bill No. 1554.

George Deukmejian, Governor

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

SECTION 1. Section 6359.6 of the Revenue and Taxation Code is amended to read:

6359.6. Notwithstanding Section 6359, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size.

SEC. 2. The sum of thirty-four thousand dollars ($34,000) is hereby appropriated to the Controller from the General Fund to make the payments to counties and cities required by Section 2230 of the Revenue and Taxation Code to reimburse them for revenue losses caused by Section 1 of this act in the initial fiscal year in which this act is effective. The appropriation made by this section shall be allocated in the manner specified in Section 2230.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 787

An act to add Section 51.2 to the Civil Code, relating to housing.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 28, 1984.]

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

SECTION 1. Section 51.2 is added to the Civil Code, to read:

51.2. (a) Section 51 shall be construed to prohibit a business establishment from discriminating in the sale or rental of housing based upon age. Where accommodations are designed to meet the physical and social needs of senior citizens, a business establishment may establish and preserve such housing for senior citizens, pursuant to Section 51.3 of the Civil Code.

(b) This section is intended to clarify the holdings in Marina Point, Ltd. v. Wolfson (1982), 30 Cal. 3d 72, and O'Connor v. Village Green Owners Association (1983), 33 Cal. 3d 790.

SEC. 2. This act shall become operative only if this bill and SB 1553 are both chaptered and become effective January 1, 1985.

CHAPTER 788

An act to amend Section 21263.7 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 21263.7 of the Government Code is amended to read:

21263.7. (a) The monthly allowances provided by Sections 21263.4 and 21263.5 shall be paid on account of retired state miscellaneous members who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4 and whose retirement dates were effective before July 1, 1974, with respect to members who were not covered by the federal system, and before July 1, 1975, with respect to members who were covered under the federal system. Upon receipt of a written application by the board, the benefits provided by this section shall be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of miscellaneous service as a state member; provided however, that if, on the date the application is received by the board, there is no longer in existence a record in the board's possession setting forth the retirement data relating to the retired member, the applicant survivor or survivors of the retired member shall be required, as a condition precedent to his or her entitlement to the benefit provided by this section, to furnish documentary evidence satisfactory to the board to enable it to determine the date of the retired member's death and the amount of the member's allowance that was currently payable at the time of death. The net benefit payable to the retired

member at the time of death shall be determined on the basis of the evidence submitted, unless the board is able to determine the unmodified allowance payable at the time of death. If the allowance payable to an eligible survivor is based on evidence furnished by the survivor or partial member records in the board's possession, or both, the board shall use that information to assume any additional factors required to calculate the allowance payable. Such benefits shall be subject to the same eligibility and termination provisions which apply to members at retirement and shall, subject to the provisions of subdivision (b), be paid only for the period of time commencing on the first of the month following receipt by the board of the application for such benefits. The board has no duty to locate or notify any potential survivor or to provide the name or address of any potential survivor to any person, agency, or entity for the purpose of notifying survivors.

(b) Upon receipt of a written application pursuant to subdivision (a), the benefits provided by this section shall be paid both prospectively and retroactively for the period of time commencing with the first day of the month following receipt of such application.

(c) The payment of benefits pursuant to this section, as amended by amendments made by Assembly Bill 744 of the 1983–84 Regular Session, shall commence no sooner than January 1, 1985.

CHAPTER 789

An act to amend Sections 14406, 14600, 14602, 14604, 14750, 14751, 14811, 14856, 15000, 15050, 15051, and 15100 of, to add Section 14007 to, and to repeal Sections 14905, 14906, 14956, and 15002 of, the Financial Code, relating to credit unions.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 14007 is added to the Financial Code, to read:

14007. "Obligation" means any contractual obligation to the credit union for money borrowed or credit extended or guaranteed from its members, including, but not limited to, loans, lines of credit, agreements to extend credit, and lease agreements.

SEC. 2. Section 14406 of the Financial Code is amended to read:

14406. The capital funds, undivided profits, and reserve funds of any credit union may be deposited only in the following:

(a) Commercial banks or trust companies, incorporated under the laws of this state.

(b) National banks located in this state.

(c) Shares or certificates for funds received or any form of

evidence of interest or indebtedness issued by any credit union organized under the provisions of this division or any credit union whose member accounts are insured as provided for by Title II of the Federal Credit Union Act, or alternatively, comparable insurance acceptable to the commissioner.

(d) Accounts with, investment certificates or withdrawable shares of, any savings and loan association doing business in this state and which is an insured institution as defined by Title IV of the National Housing Act.

SEC. 3. Section 14600 of the Financial Code is amended to read:

14600. Every credit union shall have a credit committee of at least three persons, each of whom shall be a member of the credit union, or in the alternative, a credit manager, to have general supervision of all obligations of members. The bylaws of the credit union shall provide that either: (1) the members of the credit committee shall be elected by the members of the credit union at their annual meeting, or (2) they shall be appointed by the board of directors, or (3) that the board of directors may establish the position of credit manager in lieu of a credit committee. The bylaws of the credit union shall provide for the terms of office of the credit committee, where the credit committee has been provided for in the bylaws, which shall not exceed three years, and which may be staggered.

SEC. 4. Section 14602 of the Financial Code is amended to read:

14602. (a) No credit union shall create any obligation with a credit union member, without the written approval of a majority of the members of the credit committee or the credit manager or of a loan officer appointed as provided in this section.

(b) The credit committee or the credit manager may, with the approval of the board of directors, appoint one or more loan officers who shall be authorized to approve obligations with credit union members. Unless the credit union bylaws provide for the position of credit manager, any loan officer appointed pursuant to subdivision (b) shall be a member of the credit union and may, but need not be, a member of the credit committee.

(c) A credit committee, a credit manager, and any loan officer shall not have the power to approve membership applications.

(d) No loan officers shall be permitted to approve any extension agreement of any delinquent obligation or the refinancing of any delinquent obligation except as prescribed in regulations promulgated by the commissioner.

(e) The credit committee, or in the alternative, the credit manager shall be provided with a record of each obligation approved or not approved by any loan officer within seven days of the approval or disapproval.

(f) The credit manager shall prepare a monthly report to the chief executive officer or the general manager of the credit union containing all of the following:

(1) The number, amount, and, if applicable, the terms of any

obligation with a credit union member that was approved.

(2) The number, amount, and, if applicable, the terms of any obligation with a credit union member that was denied.

(3) The dollar amount and number of months delinquent for each obligation that is more than 45 days delinquent in order to permit the credit union to establish delinquency reserves as is required pursuant to regulations that may be issued by the commissioner from time to time. The board of directors shall review the credit manager's monthly reports no less frequently than on a monthly basis.

SEC. 5. Section 14604 of the Financial Code is amended to read:

14604. A credit union member whose written application to enter into any obligation is denied, may appeal from the denial of the credit committee, the credit manager, or loan officer to the board of directors.

SEC. 6. Section 14750 of the Financial Code is amended to read:

14750. Any officer, director, member of a committee of a credit union, loan officer appointed pursuant to Section 14602, or employee who knowingly permits the creation of an obligation with, or participates in the creation of an obligation with, a nonmember of the credit union, or knowingly permits the creation of an obligation or participates in the creation of an obligation which is not made in conformity with the requirements of this division, is guilty of a misdemeanor.

SEC. 7. Section 14751 of the Financial Code is amended to read:

14751. Any officer, director, member of a committee, credit manager, or loan officer appointed pursuant to Section 14602 who violates Section 14750 is primarily liable to the credit union for the amount of any obligation that was created in violation of Section 14750. The illegality of the creation of the obligation is no defense in an action by the credit union to recover any amounts owing as a result of any obligation created in violation of Section 14750.

SEC. 8. Section 14811 of the Financial Code is amended to read:

14811. (a) A member who has no outstanding obligations with the credit union and whose share account is below the amount established by the bylaws may be transferred to inactive member status.

(b) An inactive member has no voting rights, has no right to notice of meetings of members, shall not be considered a member for purposes of determination of a quorum or a required vote and need not be sent the annual report or financial statements except upon request.

(c) When one or more of the conditions in subdivision (a) cease to be applicable, an inactive member may be transferred back to regular member status.

SEC. 9. Section 14856 of the Financial Code is amended to read:

14856. Every credit union may impress a lien upon the shares and dividends of any member to the extent of any obligations entered into with that member and for any dues or charges payable by that member.

SEC. 10. Section 14905 of the Financial Code is repealed.

SEC. 11. Section 14906 of the Financial Code is repealed.

SEC. 12. Section 14956 of the Financial Code is repealed.

SEC. 13. Section 15000 of the Financial Code is amended to read:

15000. The interest rate on obligations from the members of the credit union shall be determined by the board of directors from time to time. Any interest rate established pursuant to this section and applied to any obligation may be decreased, but shall not be increased during the term of the obligation or pursuant to an open-end loan agreement, until a further advance is made, unless otherwise provided in the obligation. Any interest rate established pursuant to this section does not include the cost of any insurance or any cost of acknowledgment, certification, registration, recordation or filing, independent appraisals, separate escrows, and other fees actually paid by a credit union to third parties in connection with the creation of obligations with its members. A charge for special services applied to a share account shall not be included in computing the interest rate permitted pursuant to this section, whether or not an overdraft results in an extension of credit, provided that the same charge is applied to the share account whether or not an extension of credit occurs.

SEC. 14. Section 15002 of the Financial Code is repealed.

SEC. 15. Section 15050 of the Financial Code is amended to read:

15050. No credit union shall do any of the following:

(a) Enter into any obligation with any director, officer, member of the credit committee or member of the supervisory committee directly or indirectly unless the obligation complies with all lawful requirements of this division with respect to obligations permitted for other members and is not on terms more favorable than those extended to other members.

(b) Enter into any obligation with any director, officer, member of the credit committee or member of the supervisory committee, directly or indirectly, not fully secured by shares or certificates for funds unless all of the following requirements are satisfied:

(1) Upon the making of the obligation, the aggregate amount of obligations outstanding, except obligations fully secured by shares, to directors, officers, members of the credit committee and their alternates, or members of the supervisory committee will not exceed 10 percent of the unimpaired capital and surplus of the credit union.

(2) The obligation, except any portion of an obligation fully secured by shares, does not exceed 1 percent of the unimpaired capital and surplus of the credit union, or the maximum obligation to the credit union prescribed by subdivisions (b) and (c) of Section 15100, whichever is less.

(3) The obligation is approved by the credit committee, or in the alternative the credit manager, and by the board of directors, except that the credit manager shall not take part in any credit decision directly or indirectly for his or her benefit. The board of directors may select a loan officer to prepare a report and recommendation

as to any extension of credit or other obligation requested by the credit manager.

(4) The credit union member entering into the obligation takes no part in the consideration of his or her application and does not attend any committee or board meeting while his or her application is under consideration.

(5) The names of members of the credit committee, or in the alternative, the credit manager, and board of directors who voted to authorize or ratify the obligation shall be entered in their respective minutes.

(c) Permit any director, officer, member of the credit committee, or in the alternative, the credit manager, or member of the supervisory committee to become surety for any obligation created by the credit union for anyone other than a member of their immediate family.

(d) Enter into any obligation with any credit manager, directly or indirectly, unless the obligation is in compliance with all requirements of this division with respect to obligations permitted for other members, and not on terms more favorable than those extended to other employees, and approved by the board of directors.

SEC. 16. Section 15051 of the Financial Code is amended to read:

15051. The board of directors shall declare the office of any director, officer, committee member, or the credit manager vacant if the person fails to reduce any obligation to the credit union for which he or she is liable in a timely manner according to the terms of the obligation.

SEC. 17. Section 15100 of the Financial Code is amended to read:

15100. (a) The board of directors shall establish written policies which shall set forth the policies of the credit union with respect to any obligation that is offered to the members of the credit union. The written policies shall set forth the maximum amounts and terms for any obligation offered to the members, including, but not limited to, the following information:

(1) For loans, the written policies shall set out the terms for unsecured loans, the maximum amount and terms for secured loans, the schedule of interest rates established pursuant to Section 15000 for each type or class of unsecured and secured loan offered to members, the maximum maturity for any loan, or, in the case of an open-end loan, the rate of repayment for any type or class of open-end loan, the limitations, if any, which shall be placed on the authority of any loan officer appointed pursuant to Sections 14602 and 14603, and, subject to the provisions of subdivisions (b) and (c), the individual limits on obligations that are applicable to all members of the credit union. Any policy developed pursuant to this section by the board of directors shall, insofar as possible, and, subject to individual credit worthiness, ensure equal access to funds available for obligations with credit union members.

(2) For obligations other than those set out in paragraph (1), the

board of directors shall set out the interest rates and essential terms of the obligations offered to the members and any other information as may be required pursuant to regulations that may be adopted by the commissioner.

(b) Notwithstanding subdivision (a), no credit union policy shall permit a credit union to enter into obligations with an individual credit union member whereby the total obligations of that member, exclusive of amounts secured by shares or certificates for funds, exceed 10 percent of the aggregate dollar amount of all share capital on deposit with the credit union.

(c) Notwithstanding subdivision (b), no credit union policy shall permit a credit union to enter into obligations with any one family whereby the total obligations of the family would be greater than the amount permitted by subdivision (b). For purposes of this article, "family" means the marital couple or any head of household together with those dependents residing with the marital couple or the head of household and those dependents attending school away from the principal residence of the marital couple or head of household.

(d) Notwithstanding subdivisions (a), (b) and (c), any obligation with a member which is not a natural person shall not result in liability to the credit union in excess of that member's investment in the credit union unless an exception is authorized in the credit union's bylaws and approved by the commissioner. Any lending activity permitted pursuant to this subdivision may be terminated by an order issued by the commissioner pursuant to Sections 14200 and 14204.

SEC. 18. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 790

An act to amend Section 24200 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 24200 of the Business and Professions Code is amended to read:

24200. The following are the grounds which constitute a basis for

the suspension or revocation of licenses:

(a) When the continuance of a license would be contrary to public welfare or morals; but proceedings under this section upon this ground are not a limitation upon the department's authority to proceed under Section 22 of Article XX of the California Constitution.

(b) Except as limited by Chapter 11 (commencing with Section 24850) and Chapter 12 (commencing with Section 25000) of this division, the violation or the causing or the permitting of a violation by a licensee of this division, any rules of the board adopted pursuant to Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code, or any rules of the department adopted pursuant to the provisions of this division, or any other penal provisions of law of this state prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors.

(c) The misrepresentation of a material fact by an applicant in obtaining a license.

(d) The plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude or under any federal law prohibiting or regulating the sale, exposing for sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors or prohibiting the refilling or reuse of distilled spirits containers charged against the licensee.

(e) Failure to take reasonable steps to correct objectionable conditions on the licensed premises or immediate adjacent area owned, leased, or rented by the licensee constituting a nuisance within a reasonable time after receipt of notice to make such corrections from a district attorney, city attorney, county counsel, or the department, under Section 373a of the Penal Code. For the purpose of this subdivision only, "property or premises" as used in Section 373a of the Penal Code includes the area immediately adjacent to the licensed premises which is owned, leased, or rented by the licensee.

CHAPTER 791

An act to add Section 50474.5 to the Government Code, and to amend Section 21681 of the Public Utilities Code, relating to aeronautics.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 50474.5 is added to the Government Code, to read:

50474.5. Whenever a local agency rents or leases hangar space at any airport owned or operated by it, the local agency may regulate the conduct of aircraft maintenance or repairs for compensation at or in the hangar space, but may not prohibit the renter or lessee from performing maintenance or repair on aircraft owned or controlled by the renter or lessee.

SEC. 2. Section 21681 of the Public Utilities Code is amended to read:

21681. For purposes of this article:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money which is provided by the public entity and which does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation with the exception of air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway clear zones" as defined in current regulations of the Federal Aviation Administration.

(5) Acquisition of easements through, or other interests in,

airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway clear zones.

(7) Original installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Original installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Original erection of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Such other capital improvements as may, from time to time, be designated in rules and regulations adopted by the department.

Expenditures which cannot be clearly identified as capital improvements shall be submitted to the department for consideration and approval.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures which are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and such other items of expenditure which may be designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding thereof. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

CHAPTER 792

An act to amend Section 1745 of, and to add Section 1745.5 to, the Code of Civil Procedure, relating to conciliation courts, and making an appropriation therefor.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 1745 of the Code of Civil Procedure is amended to read:

1745. (a) Any person employed as a supervising counselor of conciliation or as an associate counselor of conciliation shall have all of the following minimum qualifications:

(1) A masters degree in psychology, social work, marriage, family and child counseling, or other behavioral science substantially related to marriage and family interpersonal relationships.

(2) At least two years' experience in counseling or psychotherapy, or both, preferably in a setting related to the areas of responsibility of the family conciliation court and with the ethnic population to be served.

(3) Knowledge of the court system of California and the procedures used in family law cases.

(4) Knowledge of other resources in the community to which clients can be referred for assistance.

(5) Knowledge of adult psychopathology and the psychology of families.

(6) Knowledge of child development, child abuse, clinical issues relating to children, the effects of divorce on children, the effects of domestic violence on children, and child custody research sufficient to enable a counselor to assess the mental health needs of children.

(b) The family conciliation court may substitute additional experience for a portion of the education, or additional education for a portion of the experience, required under subdivision (a).

(c) The provisions of this section shall be met by all counselors of conciliation not later than January 1, 1984. This section does not apply to any supervising counselor of conciliation who is in office on the effective date of this section.

SEC. 2. Section 1745.5 is added to the Code of Civil Procedure, to read:

1745.5. (a) Supervising and associate counselors and mediators described in subdivision (b) of Section 4607 of the Civil Code shall participate in such programs of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to them. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(b) Areas of instruction shall include, but are not limited to, the following:

(1) The effects of domestic violence on children.

(2) The nature and extent of domestic violence.

(3) The social and family dynamics of domestic violence.

(4) Techniques for identifying and assisting families affected by domestic violence.

(5) Interviewing, documentation, and appropriate recommendations for families affected by domestic violence.

(6) The legal rights of, and remedies available to, victims.

(7) Availability of community and legal domestic violence resources.

(c) The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence, and shall seek to develop a training program that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.

SEC. 3. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to the Judicial Council to implement court conciliator training programs, as provided by this act.

CHAPTER 793

An act to add Section 23826.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 28, 1984 Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 23826.2 is added to the Business and Professions Code, to read:

23826.2. No new off-sale beer and wine license shall be issued in a county of the first class, as specified in Section 28022 of the Government Code, unless it is issued with conditions, pursuant to Sections 23800 and 23801, which provide that the sale of products other than beer and wine on an annual basis, measured by gross receipts, shall exceed the annual sales of beer and wine products measured by the same basis.

CHAPTER 794

An act to add Section 13013 to the Penal Code, relating to minors, and making an appropriation therefor.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. The Legislature finds and declares that there are limited resources available to implement the purposes of the Arnold-Kennick Juvenile Court Law. It is the intent of the Legislature that efforts be made to collect data that can be used to determine the subsequent criminal records of persons exposed to treatment programs after a finding of the juvenile court that those individuals' behavior is as described in Section 602 of the Welfare and Institutions Code in order that this data may be considered in making decisions involving allocation of these limited resources. A primary indicator of the outcome of these programs is the frequency with which persons placed in the programs violate any law defining a crime subsequent to their placement.

SEC. 2. Section 13013 is added to the Penal Code, to read:

13013. The department shall prepare a written proposal to be submitted to the Legislature on or before July 1, 1985, which outlines a proposed system or systems by which data could be collected which could determine subsequent criminal activity of persons exposed to rehabilitation treatment programs after having been found by the juvenile court to be within the provisions of Section 602 of the Welfare and Institutions Code. The proposal shall be prepared after consultation with interested parties, including juvenile court judges, probation officers, prosecutors, attorneys who represent minors in juvenile court proceedings, organizations which provide services to minors, and law enforcement officials who specialize in cases involving minors. The proposal shall preserve the confidentiality of records concerning minors wherever possible and shall include information concerning all of the following:

(a) An estimate of the cost of the proposed system or systems, including an estimate of the cost to the state and to city and county government.

(b) A summary of current law governing obtaining, transmitting, storing, accumulating, and utilizing fingerprints of minors, including a summary of current law in this area governing the department, other state officials, and city and county officials.

(c) A summary of the changes in current law which would be required in order to implement the proposed system or systems.

(d) A summary of the impact which the proposed system or systems would have on access to fingerprints of minors, including a summary of persons or agencies who would obtain increased or

decreased access to fingerprints of minors as a result of the proposed system or systems.

SEC. 3. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of Section 13013 of the Penal Code.

The funds appropriated by this section shall be available for encumbrance only until June 30, 1985.

CHAPTER 795

An act to add Section 31149.4 to the Water Code, relating to county water districts.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 31149.4 is added to the Water Code, to read:

31149.4. Notwithstanding Section 31149.1 or any other provision of law, the Sierra Lakes County Water District may construct works for generating hydroelectric power, at Lake Dulzura and Lake Serena and on Serena Creek in Placer County, and may operate and maintain the works, or contract for that operation or maintenance.

Construction of the works authorized by this section may be financed by the issuance of general obligation bonds or revenue bonds or any other method of financing authorized by law for public agencies. The power generated may be used by the district for its own purposes, but shall not be offered for sale directly by the district to customers other than a public utility or public agency engaged in the distribution, use, or sale of electricity.

Any of the powers may be exercised jointly with other public agencies authorized to exercise those powers. The power to acquire works and facilities does not include, and nothing in this section authorizes, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the district and the owner of that property. The authority to construct, maintain, and operate works pursuant to this section applies only to works constructed and maintained after January 1, 1984.

SEC. 2. The Sierra Lakes County Water District has special opportunities to develop hydroelectric power for use by the district. This opportunity to develop hydroelectric power is special to the Sierra Lakes County Water District and is not common to other county water districts. The Legislature therefore finds and declares that a special law is necessary with respect to the Sierra Lakes County Water District, that the provisions of Section 1 of this act are needed to meet the special circumstances within the district, and

that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 796

An act to amend Section 779 of, and to add Sections 230.3 and 779.1 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 230.3 is added to the Public Utilities Code, to read:

230.3. "Service area," for purposes of the operations of a telephone corporation, means a local access and transport area as defined and approved by the United States District Court for the District of Columbia circuit in the case of the United States v. Western Electric Co., Inc., and American Telephone and Telegraph Co., CA 82-0192, April 20 and July 8, 1983, and in a Memorandum and Order of August 5, 1983.

SEC. 2. Section 779 of the Public Utilities Code is amended to read:

779. (a) No electrical, gas, heat, or water corporation may terminate residential service for nonpayment of a delinquent account unless the corporation first gives notice of the delinquency and impending termination, at least seven days prior to the proposed termination, by first-class mail addressed to the customer or subscriber to whom the service is billed.

(b) No electrical, gas, heat, or water corporation shall effect termination of residential service for nonpayment during the pendency of an investigation by the corporation of a customer or subscriber dispute or complaint.

(c) Any residential customer or subscriber who has initiated a complaint or requested an investigation within five days of receiving the disputed bill shall be given an opportunity for review of the complaint or investigation by a review manager of the corporation. The review shall include consideration of whether the customer or subscriber should be permitted to amortize any unpaid balance of the delinquent account over a reasonable period of time. No termination of service shall be effected for any customer or subscriber complying with any such amortization agreement, if the customer or subscriber also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer or subscriber whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the corporation may appeal the determination to

the commission. Any subsequent appeal of the dispute or complaint to the commission is not subject to the provisions of this section.

(e) If a customer or subscriber fails to comply with an amortization agreement, the corporation shall not terminate service without giving notice to the customer or subscriber, as specified in subdivision (a), of the conditions the customer or subscriber is required to meet to avoid termination, but this notice does not entitle the customer or subscriber to further investigation by the corporation.

SEC. 3. Section 779.1 is added to the Public Utilities Code, to read:

779.1. (a) No electrical, gas, heat, telephone, or water corporation may terminate residential service for nonpayment of any delinquent account or other indebtedness owed by the customer or subscriber to any other person or corporation or when the obligation represented by the delinquent account or other indebtedness was incurred with a person or corporation other than the electrical, gas, heat, telephone, or water corporation demanding payment therefor.

(b) Subdivision (a) does not apply to a telephone corporation operating within service areas which furnishes billing services to the subscribers of a telephone corporation operating between service areas pursuant to tariffs on file with the commission providing for the furnishing of those billing services. The commission shall require that these tariffs also provide for adequate subscriber notice, review, and appeal procedures prior to any termination of service for nonpayment of a delinquent account.

(c) Subdivision (a) does not apply to any privately owned or publicly owned public utility which collects sanitation or sewerage charges for a public agency pursuant to agreement under Section 54346.2 of the Government Code or Section 5472.5 of the Health and Safety Code.

CHAPTER 797

An act to amend Section 345 of the Code of Civil Procedure, to amend Section 1461 of the Probate Code, and to amend Section 7279 of the Welfare and Institutions Code, relating to public hospitals.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 345 of the Code of Civil Procedure is amended to read:

345. The limitations prescribed in this chapter apply to actions brought in the name of the state or county or for the benefit of the

state or county, in the same manner as to actions by private parties. Accounts for the support of patients at state or county hospitals are book accounts as defined in Section 337a, and actions on them may be commenced at any time within four years after the last date of service or the last date of payment.

SEC. 2. Section 1461 of the Probate Code is amended to read:

1461. (a) As used in this section, "director" means:

(1) The Director of Mental Health when the state hospital referred to in subdivision (b) is under the jurisdiction of the State Department of Mental Health.

(2) The Director of Developmental Services when the state hospital referred to in subdivision (b) is under the jurisdiction of the State Department of Developmental Services.

(b) Except where the petition, report, or account is filed by the director, notice of the time and place of hearing on the petition, report, or account, and a copy of the petition, report, or account, shall be mailed to the director at the director's office in Sacramento at least 15 days before the hearing if both of the following conditions exist:

(1) The ward or conservatee is or has been during the guardianship or conservatorship proceeding a patient in, or on leave from, a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services.

(2) The petition, report, or account is filed under any one or more of the following provisions: Section 1510, 1820, 1861, 2212, 2403, 2421, 2422, or 2423; Article 7 (commencing with Section 2540) of Chapter 6 of Part 4; Section 2580, 2592, or 2620; Chapter 9.5 (commencing with Section 2670) of Part 4; Section 3080 or 3088; or Chapter 3 (commencing with Section 3100) of Part 6. Notice under this section shall not be required in the case of an accounting pursuant to Section 2620 if the total guardianship or conservatorship assets are below one thousand five hundred dollars ($1,500) and the gross annual income, exclusive of any public assistance income, is less than six thousand dollars ($6,000), and the ward or conservatee is not a patient in, or on leave or on outpatient status from, a state hospital at the time of the filing of the petition.

(c) If the ward or conservatee has been discharged from the state hospital, the director, upon ascertaining the facts, may file with the court a certificate stating that the ward or conservatee is not indebted to the state and waive the giving of further notices under this section. Upon the filing of the certificate of the director, compliance with this section thereafter is not required unless the certificate is revoked by the director and notice of the revocation is filed with the court.

(d) The statute of limitations does not run against any claim of the State Department of Mental Health or the State Department of Developmental Services against the estate of the ward or conservatee for board, care, maintenance, or transportation with

respect to an account that is settled without giving the notice required by this section.

SEC. 3. Section 7279 of the Welfare and Institutions Code is amended to read:

7279. (a) If any person committed to a state mental hospital has sufficient estate for the purpose, the guardian or conservator of the person's estate shall pay for his or her care, support, maintenance, and necessary expenses at the mental hospital to the extent of the estate. The payment may be enforced by the order of the judge of the superior court where the guardianship or conservatorship proceedings are pending. On the filing of a petition therein by the department showing that the guardian or conservator has failed, refused, or neglected to pay for such care, support, maintenance, and expenses, the court, by order, shall direct the payment by the guardian or conservator. Such order may be enforced in the same manner as are other orders of the court.

(b) If at any time there is not sufficient money on hand in the estate of a committed person to pay the claim of a state mental hospital for his or her care, support, maintenance, and expenses therein, the court may, on petition of the guardian or conservator of the estate, or if the guardian or conservator fails, refuses, or neglects to apply, on the petition of the department, make an order directing the guardian or conservator to sell so much of the other personal or real property or both, of the person as is necessary to pay for the care, support, maintenance, and expenses of the person at the mental hospital. From the proceeds of such sale, the guardian or conservator shall pay the amount due for the care, support, maintenance, and expenses at the mental hospital, and also such other charges as are allowed by law.

(c) Payment for the care, support, maintenance, and expenses shall not be extracted, however, from a person who has no more than five hundred dollars ($500) of assets.

CHAPTER 798

An act to amend Section 25170 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Hazardous waste disposal capacity in the state has been rapidly decreasing because of the difficulty in siting new facilities and the depletion of existing permitted disposal space. Additionally,

the state has set as an ultimate goal the discontinuance of conventional disposal practices in favor of more environmentally acceptable alternatives, including waste treatment and recycling.

(b) This act acknowledges that waste recycling and exchange is an option which would contribute to the overall reduction of the amount of hazardous waste requiring disposal.

(c) The State Department of Health Services expects that the continued publishing of lists of hazardous wastes and directories of permitted commercial recyclers will increase the awareness of available recycling options and will ultimately lead to a decrease in the total volume of hazardous waste. Increased interest in the disposal alternatives proposed by this act will definitely assist the state in achieving its goal of reducing toxic contaminants in our environment.

SEC. 2. Section 25170 of the Health and Safety Code is amended to read:

25170. The department, in performing its duties under this chapter, shall do all of the following:

(a) Coordinate research and development regarding methods of hazardous waste handling, storage, use, processing, and disposal and may conduct appropriate studies relating to hazardous wastes.

(b) Maintain a technical reference center on hazardous waste disposal, recycling practices, and related information for public and private use.

(c) Provide statewide planning for hazardous waste facility site identification and assessment and render technical assistance to state and local agencies in the planning and operation of hazardous waste programs.

(d) Provide for appropriate surveillance of hazardous waste processing, use, handling, storage, and disposal practices in the state.

(e) Coordinate research and study in the technical and managerial aspects of management and use of hazardous wastes, and recycling and recovery of resources from hazardous wastes.

(f) Determine existing and expected rates of production of hazardous waste.

(g) Investigate market potential and feasibility of use of hazardous wastes and recovery of resources from hazardous wastes.

(h) Promote recycling and recovery of resources from hazardous wastes.

(i) Conduct studies for the purpose of improving departmental operations.

(j) Encourage the reduction or exchange, or both, of hazardous waste, including, but not limited to, publishing and distributing both of the following:

(1) Lists of hazardous wastes for the purpose of enabling persons to match the constituents of hazardous waste streams with needs for hazardous materials resources.

(2) Directories of known and permitted commercial hazardous waste recyclers in the state.

(k) Establish and maintain an information clearinghouse, which shall consist of a record of wastes which may be recyclable. Every producer of hazardous waste shall supply the department with information for the clearinghouse. Each producer shall not be required to supply any more information than is required by the manifests provided for in Section 25160. The department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

(*l*) Conduct pilot projects, as appropriate, to document the technical performance of emerging technologies which offer potential for ameliorating California's hazardous waste disposal problems.

CHAPTER 799

An act to amend Section 10151.5 of the Business and Professions Code, relating to real estate licensees.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 10151.5 of the Business and Professions Code is amended to read:

10151.5. (a) An applicant who is not a resident of this state shall be eligible for a real estate license provided (1) the applicant qualifies for licensure under the provisions of this chapter, including Section 10162, and (2) the state or other jurisdiction which is the place of residence of the applicant permits a resident of California to qualify for and obtain a real estate license in that jurisdiction.

(b) A foreign corporation shall be exempt from the eligibility requirement set forth in clause (2) of subdivision (a) if, and for so long as, at least one of the officers of the corporation who is designated and licensed as a real estate broker pursuant to Section 10158 or 10211 is a resident of this state.

(c) Every nonresident applicant for a real estate license shall, along with his or her application, file with the Real Estate Commissioner an irrevocable consent that if in any action commenced against him or her in this state, personal service of process upon him or her cannot be made in this state after the exercise of due diligence, a valid service may thereupon be made upon the applicant by delivering the process to the Secretary of State.

(d) Insofar as possible, the provisions of Section 1018 of the Code of Civil Procedure relating to service of process on the Secretary of State are applicable to this section.

SEC. 2. Section 1 of this act shall become operative on July 1, 1985.

CHAPTER 800

An act to amend Sections 4680 and 4681 of the Welfare and Institutions Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 4680 of the Welfare and Institutions Code is amended to read:

4680. In order to assure the availability of a continuum of community living facilities of good quality for persons with developmental disabilities, and to ensure that persons placed out of home are in the most appropriate, least restrictive living arrangement, the department shall establish and maintain an equitable system of payment to providers of such services. The system of payment shall include provision for a rate to ensure that the provider can meet the special needs of persons with developmental disabilities and provide quality programs required by this article.

SEC. 2. Section 4681 of the Welfare and Institutions Code is amended to read:

4681. By July 1, 1977, and each year thereafter, the department shall establish rates, which shall be reviewed by the state council. Such rates shall annually be proposed to the Legislature by March 1 and shall be operative on July 1 of each year, subject to the appropriation of sufficient funds for such purpose in the Budget Act. In reviewing the sufficiency of these rates that is required by March 1, 1985, the department shall take into account the findings and recommendations of the study conducted by the State Council on Developmental Disabilities pursuant to Section 4541.

In establishing rates to be paid for out-of-home care, the department shall include each of the cost elements in this section as follows:

(a) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, between the age of 12–17, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. However, no cost-of-living adjustment shall be provided for the period from July 1, 1982, to September 30, 1982, inclusive, except to the extent funds may be provided therefor

by the Budget Act of 1982. A redetermination of basic living costs shall be undertaken every three years by the State Department of Developmental Services, using the best available estimating methods. In conducting its redetermination for the 1985-86 fiscal year, the department shall identify and consider any prior year cost increases which have not been addressed by recent rate adjustments.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision" shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision. Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons. The individual program plan developed pursuant to Section 4646 shall determine the amount of "direct supervision" required for each individual. The cost of "direct supervision" is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities. These rates shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of the federal Fair Labor Standards Act.

(c) Rates established for all facilities that provide "special services" for persons with developmental disabilities shall include an amount to pay for such "special services" for each person receiving special services. "Special services" include medical and dental care and therapeutic, educational, training, or other services required in the individual program plan of each person. Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital

improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

(g) Rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

(h) Rates established for developmentally disabled persons who are also mentally disordered may be fixed at a higher rate. The State Department of Mental Health shall establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also mentally disordered may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.

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

In order to ensure that persons with developmental disabilities are not displaced from existing out-of-home, community placements into more restrictive living arrangements, it is necessary that this bill take effect immediately.

CHAPTER 801

An act to amend Section 20334 of the Government Code, relating to public employee retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 20334 of the Government Code is amended to read:

20334. An employee serving on a part-time basis is excluded from this system unless:

(a) He or she is a member at the time he or she renders part-time service.

(b) His or her position requires service for at least an average of 20 hours a week, or requires service which is equivalent to at least an average of 20 hours a week, and he or she is not excluded pursuant to Section 20336.

(c) He or she is a member of the Board of Prison Terms, the State Personnel Board, or the Air Resources Board and elects to become a member of this system pursuant to Section 20360.

(d) He or she is participating in partial service retirement, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

(e) He or she is included by specific provision of the board relating to the exclusion of part-time employees.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that uncertainty arising from unintended omissions of specified persons from the Public Employees Retirement System in past legislation may be eliminated at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 802

An act to amend Section 6259 of the Government Code, relating to public records.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 6259 of the Government Code is amended to read:

6259. (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1985, an order of the court, either directing disclosure by a public official or supporting

the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of the extraordinary writ of review as defined in Section 1067 of the Code of Civil Procedure. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

CHAPTER 803

An act to add and repeal Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code, relating to agricultural land.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Article 7 (commencing with Section 51296) is added to Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 7. Demonstration Land Preservation Project

51296. The Legislature finds and declares that agricultural land trusts represent a promising method of preserving productive agricultural lands without the direct intervention of state or local land use regulations. The Legislature further finds and declares that the County of Marin has adopted local policies, including its general plan and local coastal plan, which promote the preservation of productive agricultural lands and has encouraged the development and operation of agricultural land trusts capable of undertaking a demonstration project to preserve productive agricultural lands. The Legislature further finds and declares that it is in the public interest to enhance these efforts to preserve productive agricultural lands in Marin County by supporting the efforts of agricultural land trusts.

51296.5. The State Coastal Conservancy may enter into an agreement with the County of Marin to operate a demonstration project for the purpose of determining the feasibility of preserving

productive agricultural lands through the acquisition of nonpossessory interests in these lands by an agricultural land trust. The agreement between the county and the conservancy shall specify the methods of carrying out the demonstration project, selecting the lands to be preserved, and establishing standards for the operation of the project.

51297. The County of Marin may enter into agreements and make payments to a properly constituted agricultural land trust from any grant made to the county by the conservancy to carry out the purposes of this article. Before entering into an agreement, the board of supervisors shall conduct a public hearing on the issue after giving appropriate public notice to landowners, taxpayers, local agencies, and other interested parties.

51297.5. Commencing July 1, 1985, and annually thereafter, the State Coastal Conservancy shall report annually to the Legislature concerning the progress of the demonstration project created pursuant to this article. The conservancy shall issue a final comprehensive report to the Legislature on July 1, 1989, which evaluates the prospects for using agricultural land trusts to preserve productive agricultural lands in other counties.

51298. This article shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date. The County of Marin shall retain the authority, however, to enforce the provisions of any agreement entered into pursuant to Section 51297.

CHAPTER 804

An act to amend Section 40501 of, and to add Section 40522 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor August 28, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 40522 is added to the Health and Safety Code, to read:

40522. The south coast district board may adopt a fee schedule for the approval of plans for the control of emissions of air contaminants, if the plans are required by a district rule or regulation, to cover the costs of review, planning, inspection, and monitoring related thereto. To the extent that provisions of the plans are enforceable against the person required to submit the plan, an annual fee may be charged to cover the costs of annual review, inspection, and monitoring related thereto. Every person required to submit a plan, including, notwithstanding Section 6103 of the Government Code, a person that is a publicly owned public utility, shall pay the fees required by the

schedule. The fees may not exceed the estimated reasonable cost of planning, monitoring, and enforcing the plans for which the fee is charged. A noticed public workshop shall be held at least 30 days prior to any meeting of the south coast district board at which the levying or revision of the fees is scheduled for hearing. Supporting data on the actual or estimated costs required to provide the service for which the fee is charged shall be made available at the workshop.

SEC. 2. Section 40501 of the Health and Safety Code is amended to read:

40501. (a) The south coast district board shall appoint a hearing board, or may authorize the board of supervisors of each county included, in whole or in part, within the south coast district to appoint a hearing board in accordance with Article 1 (commencing with Section 40800). The hearing board shall have the powers and duties vested in the hearing board of a county district. In addition, the hearing board has the same powers and duties with respect to plans for the control of emissions of air contaminants required by a district rule or regulation as it has for permits for authority to construct or operate any article, machine, equipment, or other contrivance required by the south coast district board.

(b) The granting of variances shall be processed by the hearing board in the county in which the variance is applicable unless the applicant and the hearing board agree otherwise, and shall be granted in conformance with the rules and regulations of the south coast district, and with Article 2 (commencing with Section 42350) of Chapter 4 of Part 4, with respect to the granting of variances.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 805

An act to amend Section 3057 of, and to add Sections 3041.1, 3043.5, and 3060.5 to, the Penal Code, relating to parole.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 3041.1 is added to the Penal Code, to read:

3041.1. Up to 90 days prior to a scheduled parole release date, the Governor shall have the power to request review of any decision concerning the grant or denial of parole to any prisoner in a state prison. The Governor shall state the reason or reasons for the request,

and whether the request is based on a public safety concern, a concern that the gravity of current or past convicted offenses may have been given inadequate consideration, or on other factors. When a request has been made, the full board, sitting en banc, shall review the parole decision. In case of a review, a vote in favor of parole by a majority of the current board members shall be required to grant parole to any prisoner. In carrying out any review, the board shall comply with the provisions of this chapter.

SEC. 2. Section 3043.5 is added to the Penal Code, to read:

3043.5. (a) This section shall be known as the "Condit-Nolan Public Participation in Parole Act of 1984."

(b) Any person interested in the grant or denial of parole to any prisoner in a state prison shall have the right to submit a statement of views in support of or in opposition to the granting of parole. The board, in deciding whether to release the person on parole, shall review all information received from the public to insure that the gravity and timing of all current or past convicted offenses have been given adequate consideration and to insure that the safety of the public has been adequately considered. Upon completion of its review, the board shall include in its report a statement that it has reviewed all information received from the public and its conclusion as to whether the person would pose a threat to the public safety if released on parole.

SEC. 3. Section 3057 of the Penal Code is amended to read:

3057. (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed 12 months, except as provided in subdivision (c).

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 which was unexpired at the time of each revocation.

(c) Notwithstanding the limitations in subdivision (a) and in Section 3060.5 upon confinement pursuant to a parole revocation, the board may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation. Upon a finding of good cause to believe that a parolee has committed a subsequent act of misconduct and utilizing procedures governing parole revocation proceedings, the board may extend the period of confinement pursuant to parole revocation as follows: (1) not more than 180 days for an act punishable as a felony whether or not prosecution is undertaken, (2) not more than 90 days for an act punishable as a misdemeanor, whether or not prosecution is undertaken, and (3) not more than 30 days for an act defined as a serious disciplinary offense pursuant to subdivision (a) of Section 2932.

SEC. 4. Section 3060.5 is added to the Penal Code, to read:

3060.5. Notwithstanding any other provision of law, the Board of Prison Terms shall revoke the parole of any prisoner who refuses to sign a parole agreement setting forth the general and any special conditions applicable to the parole, and shall order the prisoner returned to prison. Confinement pursuant to any single revocation of parole under this section shall not, absent a new conviction and commitment to prison under other provisions of law, exceed six months, except as provided in subdivision (c) of Section 3057.

CHAPTER 806

An act to add Section 5814.5 to the Labor Code, relating to workers' compensation.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 29, 1984.]

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

SECTION 1. Section 5814.5 is added to the Labor Code, to read:

5814.5. When the payment of compensation has been unreasonably delayed or refused subsequent to the issuance of an award by an employer which has secured the payment of compensation pursuant to subdivision (c) of Section 3700, the appeals board shall, in addition to increasing the order, decision, or award pursuant to Section 5814, award reasonable attorneys' fees incurred in enforcing the payment of compensation awarded.

SEC. 2. The Legislature finds that there are inadequate incentives to ensure the prompt payment of workers' compensation benefits which have been awarded employees of political subdivisions of the state which are uninsured for their workers' compensation liability. The manner in which these employers fund their workers' compensation liability, coupled with the lack of security required for the payment of compensation, make it necessary to provide this additional incentive for these employers to promptly pay benefits which have been awarded.

CHAPTER 807

An act to add Section 12845 to the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 12845 is added to the Food and Agricultural Code, to read:

12845. (a) The director may adopt regulations that require registrants to provide information determined by the director to be necessary to enable the director to perform the audit authorized pursuant to Section 12842 and to carry out other powers or duties under this division.

(b) The regulations adopted pursuant to this section may include, but are not limited to, a requirement that a registrant provide the director with information on the quarterly dollar sales of each registered economic poison sold for use in this state and the quarterly pounds of each registered economic poison sold for use in this state.

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

CHAPTER 808

An act to amend Section 99400.6 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 99400.6 of the Public Utilities Code is amended to read:

99400.6. Notwithstanding Section 99232, the County of San Diego may file a claim under this article with the transportation planning agency to provide express bus service or vanpool service for the purpose of serving work commute trips and for providing accessibility between residential areas and major activity centers.

The express bus service may be located anywhere in the county, but shall be consistent with the plans of the San Diego Metropolitan Transit Development Board and the North San Diego County Transit Development Board, and may be provided by contract with operators, private entities operating under a franchise or license, or nonprofit corporations organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

The vanpool service shall be operated by the county with

county-owned vans and any claims submitted pursuant to this section for such service shall be approved subject to all of the following conditions:

(a) The amount of the claim to be limited to the actual cost of acquiring the vans.

(b) The local transportation fund to be reimbursed for the amount of the claim within the passenger service life of the vans.

CHAPTER 809

An act to add Section 4446 to the Welfare and Institutions Code, relating to state hospitals.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 4446 is added to the Welfare and Institutions Code, to read:

4446. (a) Notwithstanding Section 4444, the Director of General Services may enter into an agreement with the City of Santa Clara for the dedication of a public right-of-way and the granting of long-term easements, as specified in subdivision (d), by the department over and across state property within Agnews State Hospital, for public road purposes.

(b) The term of any easement agreed to by the department shall be of sufficient duration to enable the city to exercise jurisdiction over the public street or road thereon for maintenance purposes. Any construction or maintenance of a public street or road shall be at no cost to the state, and shall be subject to any applicable state or local requirements relating to accessibility for the physically handicapped or disabled.

(c) The agreement shall contain such terms, conditions, reservations, and exceptions as the director deems in the best interest of the state, and as will protect the future use and marketability of the property.

(d) Any public right-of-way or easements agreed to pursuant to subdivision (a) shall meet the following specifications:

(1) A public right-of-way over approximately an 80-foot wide strip of land starting at a point approximately 1450 feet east of the center line of De La Cruz Boulevard and running in a northerly direction from Montague Expressway approximately 2200 feet to a point 250 feet south of the northern boundary of the Camsi III property, the last 970 feet of which lies contiguous with the western boundary of the Camsi III property, together with land necessary for acceleration and deceleration lanes from the proposed collector street onto and off of Montague Expressway, the land consisting of two wedge

shaped parcels, 600 feet in length and varying width, between 20 feet to 0 feet.

(2) A 20-foot wide easement for entry into state land, to fill an existing channel and install and maintain a water main, lying contiguous to the northern right-of-way line of Montague Expressway and running from the western boundary of Camsi III property, westerly to De La Cruz Boulevard, excepting that right-of-way previously described in paragraph (1) of this subdivision for the proposed street purpose.

(3) A 30-foot wide easement, for the purpose of filling an existing storm channel, running from Montague Expressway 441 feet northerly along the water boundary of Camsi III property.

SEC. 2. (a) Subject to such terms, conditions, reservations, and exceptions as the Director of General Services deems in the best interest of the state, the director may exchange a 1.54 acre parcel of land within Agnews State Hospital, described in subdivision (b), for two parcels of land totaling 1.54 acres owned by Camsi III, described in subdivision (c).

Camsi III may be charged for actual costs relating to an appraisal of the property and negotiations relating to the exchange of property, not to exceed twenty thousand dollars ($20,000), which shall be estimated in detail before entering into any agreement for the exchange of land.

(b) The land within Agnews State Hospital lies adjacent to the western boundary of land owned by Camsi III. The southern boundary of the 1.54 acre parcel is parallel to and 440 feet more or less north of Montague Expressway, and tapers from 330 feet along the southern boundary to a point some 580 feet more or less northerly.

(c) The two parcels of land owned by Camsi III are the following:

(1) A 1.05 acre parcel of land which lies on the northern side of Montague Expressway adjacent to the western boundary of the Guadalupe River and extends from the expressway 440 feet, more or less, northerly along the western river boundary.

(2) A 0.49 acre triangle-shaped parcel of land located at the northwestern corner of the Camsi III lands, the taper of the triangle of which extends 292 feet more or less westerly into the Agnews State Hospital lands.

CHAPTER 810

An act to add Section 10626.5 to the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 10626.5 is added to the Welfare and Institutions Code, to read:

10626.5. (a) A public agency or nonprofit corporation, or a combination thereof, providing the public social services listed in Section 10621, may charge a fee to all public and private agencies when providing public social services to those agencies. The charge shall be based on a standard schedule of fees established and maintained by the service provider. The amount charged shall equal the sum of all costs, direct and indirect, for providing the public social services listed in Section 10621. This fee shall be referred to as program income.

(b) The purpose of program income shall be for either (1) expanding, or (2) continuing the provision of public social services as listed in Section 10621, irrespective of the state fiscal year in which the program income was earned or collected. In the event of cancellation or nonrenewal of a contract, all program income not expended shall be remitted to the department.

(c) Except as otherwise provided by law, all program income received shall be accounted for to the State Department of Social Services at the close of each fiscal year, or more frequently if required by the State Department of Social Services, or the Department of Finance, in such form as prescribed. It is the intent of the Legislature to allow prior collected funds currently in the possession of the service providers to be expended on the provision of the public social services as listed in Section 10621.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the retention of fees by public and private agencies at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 811

An act to amend Sections 13 and 31 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 13 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 13. The board shall have the power, in any year:

1. To levy ad valorem taxes or assessments in the district, to pay the general administrative costs and expenses, including maintenance and operation of established works, of the district, to carry out any of the objects or purposes of this act of common benefit to the district, and to provide a fund which may be used by the district to pay the costs and expenses of constructing or extending any or all works established within or on behalf of a zone or participating zones within the district; provided, that funds so used are replaced from funds derived from either of the following sources:

(a) Taxes or assessments levied pursuant to subdivision 2 or 3 within the zone or participating zones benefited by such construction in the year or years immediately following the use of those funds.

(b) Fees or charges collected under authority of Section 5, subdivision 9, or Section 26.

Taxes or assessments under paragraph (a) of subdivision 1 may be levied for purposes of this subdivision of this section by either of the following methods:

(a) By a levy or assessment upon all property within the district, including land, improvements thereon, and personal property.

(b) By a levy or assessment upon all real property within the district, including both land and improvements thereon.

2. To levy taxes or assessments in each or any of the zones and participating zones, to pay the cost of carrying out any of the objects or purposes of this act performed or to be performed on behalf of the respective zones, including the constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established or to be established within or on behalf of the respective zones, according to the benefits derived or to be derived by the respective zones, by any of the following methods:

(a) By a levy or assessment upon all property within a zone or participating zone, including land, improvements thereon, and personal property.

(b) By a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon.

(c) By a levy or assessment upon land only within a zone or participating zones.

It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

3. To levy assessments upon any property in each or any of said zones, according to the provisions and procedures of the Improvment Act of 1911, the Improvement Bond Act of 1915, the

Municipal Improvement Act of 1913, or the Refunding Assessment Bond Act of 1935.

In the event of project cooperation with any of the governmental bodies as authorized in subdivision 7 of Section 5 of this act, and the making of a contract with any such governmental body for the purposes set forth in the subdivision 7 of Section 5, by the terms of which work is agreed to be performed by any such governmental body in any specified zone or participating zones, for the particular benefit thereof, and by the contract it is agreed that the district is to pay to the governmental body, a sum of money in consideration or subvention for the performance of the work by the governmental body, the board may levy and collect a special tax or assessment upon the property in the zone or participating zones, whereby to raise funds to enable the district to make the payment, in addition to other taxes or assessments herein otherwise provided for.

The taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from the district taxes or assessments, together with penalties thereon, shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board may control and order the expenditure thereof for those purposes; provided, however, that no revenues, or portions thereof, derived in any of the several zones from the taxes or assessments levied under the provisions of subdivision 2 of this section shall be expended for constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside such zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, the zones will become, and shall be referred to as, participating zones.

SEC. 2. Section 31 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 31. The legal title to all property, except shares of stock in mutual water companies or corporations, as provided in Section 31d of Article IV of the Constitution, acquired under the provisions of this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board may hold, use, acquire, manage, occupy and possess the property, as herein provided; and the board may determine, by resolution duly entered in their minutes that any real property, or interest therein, held by the district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease or otherwise dispose of the property pursuant to this section.

Real property which, in the unanimous judgment of the board, has no access to a public road, or which consists of an easement for ingress and egress to property which, by the terms of the easement, will terminate when ingress and egress is supplied to the property by a public road, may be sold, leased, or conveyed by the board on

terms prescribed by it.

The board may reconvey real property to the former owner by whom such property was conveyed, or from whom the property was condemned by the district, or the owner's successor in interest for a price not less than that paid by the district for such property.

The board may by a five-sevenths vote exchange real property of equal value with any person, firm, or corporation for the purpose of removing defects in the title to real property owned by the district or where the real property to be exchanged is not required for district use and the property to be acquired is required for district use.

In all other cases, the board shall be governed in the sale or lease or other disposition of real property by the requirements of law governing that action by counties; provided, however, that notice of the board's intended action shall be as prescribed in Section 25363 of the Government Code.

The board may by resolution prescribe a procedure for the leasing of real property owned by the district alternative to the requirements of law governing counties. However, in those cases, the rental, as determined by a qualified real estate appraiser, shall not exceed two thousand five hundred dollars ($2,500) per month.

The board may by a five-sevenths vote sell, lease, or otherwise transfer to the state, the County of Santa Clara, or to any city, school district or other special district within the Santa Clara Valley Water District, or exchange with the public entities any real or personal property or interest therein belonging to the district upon such terms and conditions as are agreed upon.

The board shall establish regulations for the trade in, survey, sale or other disposition of personal property held by the district and no longer necessary to be retained for the uses and purposes thereof; provided, that any sale of personal property having a sale value in excess of that value stated from time to time by Section 1041.6 of Article 2 of Subchapter 3 of Chapter 2 of Division 2 of Title 2 of the California Administrative Code as a definition of "fixed assets", or such lower value as may be determined by the board, shall be made upon public bid preceded by notice of the board's intended action given as prescribed in Section 25363 of the Government Code.

CHAPTER 812

An act to amend Sections 315, 1505, 5310, 5615, 5616, 6210, 7236, 7310, 7420, 7511, 7614, 7615, 8210, 8613, 9243, 9310 9680, 12376, 12455, 12484, and 12570 of, and to repeal Sections 6213, 8213, and 12573 of, the Corporations Code, relating to corporations.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 315 of the Corporations Code is amended to read:

315. (a) A corporation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer of the corporation or of its parent, unless the transaction, or an employee benefit plan authorizing the loans or guaranties after disclosure of the right under such a plan to include officers or directors, is approved by a majority of the shareholders entitled to act thereon.

(b) Notwithstanding subdivision (a), if the corporation has outstanding shares held of record by 100 or more persons (determined as provided in Section 605) on the date of approval by the board, and has a bylaw approved by the outstanding shares (Section 152) authorizing the board alone to approve such a loan or guaranty to an officer, whether or not a director, or an employee benefit plan authorizing such a loan or guaranty to an officer, such a loan or guaranty or employee benefit plan may be approved by the board alone by a vote sufficient without counting the vote of any interested director or directors if the board determines that such a loan or guaranty or plan may reasonably be expected to benefit the corporation.

(c) A corporation shall not make any loan of money or property to, or guarantee the obligation of, any person upon the security of shares of the corporation or of its parent if the corporation's recourse in the event of default is limited to the security for the loan or guaranty, unless the loan or guaranty is adequately secured without considering these shares, or the loan or guaranty is approved by a majority of the shareholders entitled to act thereon.

(d) Notwithstanding subdivision (a), a corporation may advance money to a director or officer of the corporation or of its parent for any expenses reasonably anticipated to be incurred in the performance of the duties of the director or officer, provided that in the absence of the advance the director or officer would be entitled to be reimbursed for the expenses by the corporation, its parent, or any subsidiary.

(e) The provisions of subdivision (a) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value.

(f) This section does not apply to any of the following:

(1) Any transaction, plan, or agreement permitted under Section 408.

(2) Any depository institution, as defined in Section 202 of the

Depository Institutions Management Interlocks Act (12 U.S.C. Sec. 3201).

(3) Any loan or guaranty made by a corporation that makes loans or guaranties in the ordinary course of its business if statutes or regulations pertaining to the corporation expressly regulate the making by the corporation of loans to its officers or directors or the undertaking of guaranties of the obligations of its officers or directors.

(g) For the purposes of subdivisions (a) and (c), "approval by a majority of the shareholders entitled to act" means either (1) written consent of a majority of the outstanding shares without counting as outstanding or as consenting any shares owned by any officer or director eligible to participate in the plan or transaction that is subject to this approval, (2) the affirmative vote of a majority of the shares present and voting at a duly held meeting at which a quorum is otherwise present, without counting for purposes of the vote as either present or voting any shares owned by any officer or director eligible to participate in the plan or transaction that is subject to the approval, or (3) the unanimous vote or written consent of the shareholders. In the case of a corporation which has more than one class or series of shares outstanding, the "shareholders entitled to act" within the meaning of this section includes only holders of those classes or series entitled under the articles to vote on all matters before the shareholders or to vote on the subject matter of this section, and includes a requirement for separate class or series voting, or for more or less than one vote per share, only to the extent required by the articles.

SEC. 1.5. Section 1505 of the Corporations Code is amended to read:

1505. (a) Any domestic or foreign corporation, before it may be designated as the agent for the purpose of service of process of any entity pursuant to any law which refers to this section, shall file a certificate executed in the name of the corporation by an officer thereof stating all of the following:

(1) The complete address of its office or offices in this state, wherein any entity designating it as such agent may be served with process.

(2) The name of each person employed by it at each such office to whom it authorizes the delivery of a copy of any such process.

(3) Its consent that delivery thereof to any such person at the office where the person is employed shall constitute delivery of any such copy to it, as such agent.

(b) Any corporation which has filed the certificate provided for in subdivision (a) may file any number of supplemental certificates containing all the statements provided for in subdivision (a), which, upon the filing thereof, shall supersede the statements contained in the original or in any supplemental certificate previously filed.

(c) No domestic or foreign corporation may file a certificate pursuant to this section unless it is currently authorized to engage in

business in this state and is in good standing on the records of the Secretary of State.

SEC. 1.7. Section 5310 of the Corporations Code is amended to read:

5310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members, any action for which there is no specific provision of this part applicable to a corporation which has no members and which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC. 2. Section 5615 of the Corporations Code is amended to read:

5615. (a) In advance of any meeting of members the board may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any meeting of members may, and on the request of any member or a member's proxy shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed. In the case of any action by written ballot (Section 5513), the board may similarly appoint inspectors of election to act with powers and duties as set forth in this section.

(b) The inspectors of election shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all members.

(c) The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts

stated therein.

SEC. 3. Section 5616 of the Corporations Code is amended to read:

5616. (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate the member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 5034), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to the voting and a member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given this notice, all members may cumulate their votes for candidates in nomination.

(c) In any election of directors by cumulative voting, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.

(d) In any election of directors not governed by subdivision (c), unless otherwise provided in the articles or bylaws, the candidates receiving the highest number of votes are elected.

(e) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 4. Section 6210 of the Corporations Code is amended to read:

6210. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; and (2) the street address of its principal office, in this state, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation which has complied with Section 1505 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original

articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 5. Section 6213 of the Corporations Code is repealed.

SEC. 6. Section 7236 of the Corporations Code is amended to read:

7236. (a) Subject to the provisions of Section 7231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation for the benefit of all of the creditors entitled to institute an action under paragraph (1) or (2) of subdivision (c) or to the corporation in an action by the head organization or members under paragraph (1) or (3) of subdivision (c):

(1) The making of any distribution contrary to Chapter 4 (commencing with Section 7410).

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapter 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710).

(3) The making of any loan or guaranty contrary to Section 7235.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce

the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (c) of Section 7420.

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment.

(3) Under paragraph (3) of subdivision (a) against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 7710.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty, but not exceeding, in the case of an action for the benefit of creditors, the liabilities of the corporation owed to nonconsenting creditors at the time of the violation.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to the director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

SEC. 6.5. Section 7310 of the Corporations Code is amended to read:

7310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members:

(1) Any action for which there is no specific provision of this part applicable to a corporation which has no members and which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(2) All rights which would otherwise vest in the members to share in a distribution upon dissolution shall vest in the directors.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC. 7. Section 7420 of the Corporations Code is amended to read:

7420. (a) Any person who with knowledge of facts indicating the impropriety thereof receives any distribution, including a payment in redemption of a membership, prohibited by this chapter is liable to the corporation for the amount so received by the person with interest thereon at the legal rate on judgments until paid.

(b) Any person who with knowledge of facts indicating the impropriety thereof receives any distribution, including a payment in redemption of a membership, prohibited by this chapter is liable to the corporation for the benefit of the head organization, or of all of the creditors entitled to institute an action under subdivision (c), for the amount so received by the person with interest thereon at the legal rate on judgments until paid, but not exceeding the obligations of the corporation owed to the head organization at the time of the violation, or the liabilities of the corporation owed to nonconsenting creditors at the time of the violation, as the case may be.

(c) Suit may be brought in the name of the corporation to enforce the liability (1) to creditors arising under subdivision (b) for a violation of Section 7411 or 7412 against any or all persons liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the distribution and who have not consented thereto, whether or not they have reduced their claims to judgment, or (2) to the head organization arising under subdivision (b) for a violation of Section 7413 against any or all persons liable by any head organization which pursuant to the corporation's articles is entitled to a distribution of assets upon dissolution.

(d) Any person sued under subdivision (b) may implead all other persons liable under subdivision (b) and may in the absence of fraud by the moving party compel contribution, either in that action or in an independent action against persons not joined in that action.

(e) Nothing contained in this section affects any liability which any person may have under Sections 3439 to 3439.12, inclusive, of the Civil Code.

SEC. 8. Section 7511 of the Corporations Code is amended to read:

7511. (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting. Subject to subdivision (f), and subdivision (b) of Section 7512, the notice shall state the place, date and time of the

meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time the notice is given, intends to present for action by the members, but, except as provided in subdivision (b) of Section 7512, any proper matter may be presented at the meeting for the action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to members.

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to a member at the address of the member appearing on the books of the corporation or given by the member to the corporation for purpose of notice; or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the member at the address of the member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at the address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.

(c) Upon request in writing to the chairman of the board, president, vice president, or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which

the adjournment is taken. No meeting may be adjourned for more than 45 days. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If after the adjournment a new record date is fixed for notice or voting, a notice of the adjourned meeting shall be given to each member who, on the record date for notice of the meeting, is entitled to vote at the meeting.

(e) The transactions of any meeting of members however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at the meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if the objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any approval of the members required under Section 7222, 7224, 7233, 7812, 8610, or 8719, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

SEC. 9. Section 7614 of the Corporations Code is amended to read:

7614. (a) In advance of any meeting of members, the board may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any meeting of members may, and on the request of any member or a member's proxy shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed. In the case of any action by written ballot (Section 7513), the board may

similarly appoint inspectors of election to act with powers and duties as set forth in this section.

(b) The inspectors of election shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum, and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connnection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all members.

(c) The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

SEC. 10. Section 7615 of the Corporations Code is amended to read:

7615. (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate the member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 5034), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to the voting and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given this notice, all members may cumulate their votes for candidates in nomination.

(c) In any election of directors by cumulative voting, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.

(d) In any election of directors not governed by subdivision (c), unless otherwise provided in the articles or bylaws, the candidates receiving the highest number of votes are elected.

(e) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 11. Section 8210 of the Corportions Code is amended to read:

8210. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; and (2) the street address of its principal office in this state, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation which has complied with Section 1505 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 12. Section 8213 of the Corporations Code is repealed.

SEC. 13. Section 8613 of the Corporations Code is amended to read:

8613. (a) Voluntary proceedings for winding up the corporation commence upon the adoption of the resolution required by Section 8610 by the members, by the board and members, or by the board alone, electing to wind up and dissolve.

(b) When a voluntary proceeding for winding up has

commenced, the board shall continue to act as a board and shall have full powers to wind up and settle its affairs, both before and after the filing of the certificate of dissolution.

(c) When a voluntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof, to the extent necessary to carry out its purposes, and except during such period as the board may deem necessary to preserve the corporation's goodwill or going-concern value pending a sale or other disposition of its assets, or both, in whole or in part. The board shall cause written notice of the commencement of the proceeding for voluntary winding up to be given by mail to all its members (except no notice need be given to the members who voted in favor of winding up and dissolving the corporation), to all known creditors and claimants whose addresses appear on the records of the corporation, and in the case of a corporation holding assets in charitable trust to the Attorney General.

SEC. 14. Section 9243 of the Corporations Code is amended to read:

9243. (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest and which does not meet the requirements of paragraph (1), (2), (3), or (4) of subdivision (d). Such a director is an "interested director" for the purpose of this section.

(b) This section does not apply to any of the following:

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation or making any loan of money or property to, or guaranteeing the obligation of, any director or officer.

(2) A transaction which is part of a public, charitable or religious program of the corporation if it (A) is approved or authorized by the corporation in good faith and without unjustified favoritism, and (B) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public, charitable or religious program.

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of 1 percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars ($100,000).

(c) Any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h):

(1) The corporation, or a member asserting the right in the name of the corporation; however, for the purpose of this paragraph the provisions of Section 5710 shall apply to the action.

(2) A director of the corporation.

(3) An officer of the corporation.

(4) Any person authorized by the bylaws to bring an action.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated; or

(2) The transaction is approved or ratified in good faith by the members (Section 5034) other than the directors, after notice and disclosure to the members of the material facts concerning the transaction and the director's interest in the transaction; or

(3) The following facts are established:

(A) The corporation entered into the transaction for its own benefit or for the benefit of the religious organization;

(B) The transaction was fair and reasonable as to the corporation or was in furtherance of its religious purposes at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof, the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (4), action by a committee of the board shall not satisfy this paragraph; and

(D) (i) Prior to authorizing or approving the transaction, the board considered and in good faith determined after reasonable investigation under the circumstances that either the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the transaction was in furtherance of the corporation's religious purposes or (ii) in fact, either the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the transaction was in furtherance of the corporation's religious purposes; or

(4) The following facts are established:

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (3).

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) or Section 9230 shall be commenced within two years after written notice setting forth the material facts of the transaction is filed with the Attorney General in accordance with such regulations, if any, as the Attorney General may adopt or if no such

notice is filed, five years after the cause of action has accrued.

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) If a self-dealing transaction has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation, taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from the transaction, and pay them to the corporation.

(2) Pay the corporation the value of the use of any of its property used in the transactions.

(3) Return or replace any property lost to the corporation as a result of the transaction, together with any income or appreciation lost to the corporation by reason of the transaction, or account for any proceeds of sale of the property, and pay the proceeds to the corporation together with interest at the legal rate.

The court may award prejudgment interest to the extent allowed in Sections 3287 and 3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

SEC. 14.5. Section 9310 of the Corporations Code is amended to read:

9310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) Subject to the articles or bylaws, in the case of a corporation which has no members:

(1) Any action for which there is no specific provision of this part applicable to a corporation which has no members and which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board.

(2) All rights which would otherwise vest under this part in the members shall vest in the directors.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC. 15. Section 9680 of the Corporations Code is amended to read:

9680. (a) Chapters 16 (commencing with Section 6610) and 17 (commencing with Section 6710) of Part 2 apply to religious corporations except for Sections 6610, 6614, 6710, 6711 and 6716.

(b) (1) Any corporation may elect voluntarily to wind up and dissolve (A) by approval of a majority of all the members (Section 5033) or (B) by approval of the board and approval of the members (Section 5034).

(2) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve:

(A) A corporation which has been adjudicated a bankrupt.

(B) A corporation which has disposed of all its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(C) A corporation which has no members.

(D) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subparagraph (i) of paragraph (2) of subdivision (a) of Section 9132.

(c) If a corporation is in the process of voluntary winding up, the superior court of the proper county, upon the petition of (1) the corporation, or (2) the authorized number (Section 5036), or (3) the Attorney General, or (4) three or more creditors, and upon such notice to the corporation and members and creditors as the court may order, may take jurisdiction over the voluntary winding up proceeding if that appears necessary for the protection of the assets of the corporation. The court, if it assumes jurisdiction, may make such orders as to any and all matters concerning the winding up of the affairs of the corporation and the protection of its creditors and its assets as justice and equity may require. Chapter 15 (commencing with Section 6510) (except Sections 6510 and 6511) shall apply to those court proceedings.

(d) The powers and duties of the directors (or other persons appointed by the court pursuant to Section 6515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation:

(1) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(2) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(3) To carry out contracts and collect, pay, compromise, and settle debts and claims for or against the corporation.

(4) To defend suits brought against the corporation.

(5) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property.

(6) To collect any amounts remaining unpaid on memberships or

to recover unlawful distributions.

(7) Subject to the provisions of Section 9142, to sell at public or private sale, exchange, convey, or otherwise dispose of all or any part of the assets of the corporation in an amount deemed reasonable by the board without compliance with Section 9631, and to execute bills of sale and deeds of conveyance in the name of the corporation.

(8) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation.

(e) After complying with Section 6713:

(1) Except as provided in Section 6715, all of a corporation's assets shall be disposed of on dissolution in conformity with its articles or bylaws subject to complying with the provisions of any trust under which such assets are held.

(2) Except as provided in subdivision (3), the disposition required in subdivision (1) shall be made by decree of the superior court of the proper county. The decree shall be made upon petition therefor, upon 30 days' notice to the Attorney General, by any person concerned in the dissolution.

(3) The disposition required in subdivision (1) may be made without the decree of the superior court, subject to the rights of persons concerned in the dissolution, if the Attorney General makes a written waiver of objections to the disposition.

(f) A vacancy on the board may be filled during a winding up proceeding in the manner provided in Section 9224.

(g) Chapter 15 (commencing with Section 6510) does not apply to religious corporations except to the extent its provisions apply under subdivision (d) of Section 6617, subdivision (c) of Section 6719, or subdivision (c) or (d) of this section.

SEC. 16. Section 12376 of the Corporations Code is amended to read:

12376. (a) Subject to the provisions of Section 12371, directors of a corporation who approve any of the following corporate actions are jointly and severally liable to the corporation for the benefit of all of the creditors entitled to institute an action under paragraph (1) or (2) of subdivision (c) or to the corporation in an action by members under paragraph (3) of subdivision (c):

(1) The making of any distribution or purchase or redemption of memberships contrary to Chapter 4 (commencing with Section 12450).

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapters 15 (commencing with Section 12620), 16 (commencing with Section 12630), and 17 (commencing with Section 12650).

(3) The making of any loan or guarantee contrary to Section

12375.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (c) of Section 12455.

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment.

(3) Under paragraph (3) of subdivision (a) against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 12490.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guarantee, but not exceeding, in the case of an action for the benefit of creditors, the liabilities of the corporation owed to nonconsenting creditors at the time of the violation.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guarantee.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to the director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

SEC. 17. Section 12455 of the Corporations Code is amended to read:

12455. (a) Any person who with knowledge of facts indicating the impropriety thereof receives any distribution, including a payment in redemption of a membership, prohibited by this chapter is liable to the corporation for the amount so received by the person with interest thereon at the legal rate on judgments until paid.

(b) Any person who with knowledge of facts indicating the

impropriety thereof receives any distribution, including a payment in redemption of a membership, prohibited by this chapter is liable to the corporation for the benefit of all of the creditors entitled to institute an action under subdivision (c) for the amount so received by the person with interest thereon at the legal rate on judgments until paid, but not exceeding the liabilities of the corporation owed to nonconsenting creditors at the time of the violation.

(c) Suit may be brought in the name of the corporation to enforce the liability to creditors arising under subdivision (b) for a violation of Section 12452 or 12453 against any or all persons liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the distribution and who have not consented thereto, whether or not they have reduced their claims to judgment.

(d) Any person sued under subdivision (b) may implead all other persons liable under subdivision (b) and may in the absence of fraud by the moving party compel contribution, either in that action or in an independent action against persons not joined in that action.

SEC. 17.5. Section 12484 of the Corporations Code is amended to read:

12484. (a) Except in the case of a central organization, cumulative voting shall not be permitted. In the case of a central organization, if the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 12224), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

(c) In any election of directors of a central organization by cumulative voting, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes. In any other election of directors, unless otherwise provided in the articles or bylaws, the candidates receiving the highest number of votes are elected.

(d) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 18. Section 12570 of the Corporations Code is amended to read:

12570. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer or general manager, secretary, and chief financial officer; and (2) the street address of its principal office in this state, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign corporation which has complied with Section 1505 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 19. Section 12573 of the Corporations Code is repealed.

CHAPTER 813

An act to add Section 362.3 to the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 362.3 is added to the Welfare and Institutions Code, to read:

362.3. When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the persons' attainment of the age of 18 years, and either proceedings for the declaration of the nullity or dissolution of the marriage of the minor's parents are pending in the superior court of the same county, or an order has been entered with regard to the custody of such a minor, the juvenile court on its own motion, may issue an order directed to either of the parents enjoining any action specified in paragraph (2) or (3) of subdivision (a) of Section 4359 of the Civil Code or determining the custody of or visitation with the child.

Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity or dissolution at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.

CHAPTER 814

An act to add Section 232 to the Labor Code, relating to employment.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 232 is added to the Labor Code, to read:

232. No employer shall do any of the following:

(a) Require, as a condition of employment, that any employee refrain from disclosing the amount of his or her wages.

(b) Require any employee to sign a waiver or other document which purports to deny the employee the right to disclose the amount of his or her wages.

(c) Discharge, formally discipline, or otherwise discriminate against, for job advancement, an employee who discloses the amount

of his or her wages.

CHAPTER 815

An act to add Sections 7026.10 and 7026.11 to the Business and Professions Code, relating to contracting.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 7026.10 is added to the Business and Professions Code, to read:

7026.10. Any person who willfully and intentionally uses, with intent to defraud, a contractor's license number which does not correspond to the number on a currently valid contractor's license held by that person is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in state prison, or in county jail for not more than one year, or by both the fine and imprisonment.

SEC. 2. Section 7026.11 is added to the Business and Professions Code, to read:

7026.11. The penalty provided by Section 7026.10 is cumulative to the penalties available under all other laws of this state.

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

CHAPTER 816

An act to amend Sections 6521, 6585, 6604, 7320, and 7380 of the Business and Professions Code, relating to cosmetology.

[Approved by Governor August 29, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 6521 of the Business and Professions Code is amended to read:

6521. As used in this chapter, barbershop embraces any

establishment or place of business wherein the practice of barbering is engaged in or carried on.

If a new barbershop is located in the same room as an existing cosmetological establishment, the barbershop owner shall not be required to comply with Section 6549.5 or 6549.6, and the existing equipment and plumbing in the cosmetological establishment shall be included in determining the minimum equipment and plumbing required for the barbershop.

SEC. 2. Section 6585 of the Business and Professions Code is amended to read:

6585. The use of any room or place for barbering which is also used for residential or business purposes, except a cosmetological establishment as defined in Section 7380, unless a substantial partition of ceiling height or of such lesser height as may be approved by the board separates the portion used for residential or business purpose, constitutes a cause for disciplinary action, except that nothing in this section shall prohibit the sale, in any room or place for barbering, of cutlery, cosmetics, and toilet articles that are used in the practice of barbering.

SEC. 3. Section 6604 of the Business and Professions Code is amended to read:

6604. The use of any room or place for barbering which is also used for residential or business purposes, except a cosmetological establishment as defined in Section 7380, unless a substantial partition of ceiling height or of a lesser height as may be approved by the board separates the portion used for residential or business purpose, is unlawful, except that nothing in this section shall prohibit the sale, in any room or place for barbering, of cutlery, cosmetics, and toilet articles that are used in the practice of barbering.

SEC. 4. Section 7320 of the Business and Professions Code is amended to read:

7320. No person, firm or corporation shall conduct or operate a cosmetological establishment, school of cosmetology, hairdressing shop, beauty parlor or any other place of business in which the art of cosmetology or any of its branches is taught or practiced, except the branch of cosmetology or manicuring as practiced in a barbershop, unless licensed under the provisions of this chapter and complying with the provisions of this chapter relating to sanitation. Any violation of this section is a misdemeanor.

SEC. 5. Section 7380 of the Business and Professions Code is amended to read:

7380. A cosmetological establishment is any premises, building or part of a building, whereon or wherein is practiced any branch or any combination of branches of cosmetology, or the occupation of a cosmetologist, except the branch of cosmetology or manicuring as practiced in barbershops, licensed by the board and complying with the provisions of Sections 7381, 7382, 7383, and 7384 of this code and all sanitary regulations established by the board.

If a new cosmetological establishment is located in the same room

as an existing barbershop, the existing equipment and plumbing of the barbershop shall be included in determining the minimum equipment and plumbing required for the cosmetological establishment.

CHAPTER 817

An act to amend Section 8394.5 of, and to add and repeal Article 17 (commencing with Section 8585) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1984. Filed with Secretary of State August 30, 1984.]

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

SECTION 1. Section 8394.5 of the Fish and Game Code is amended to read:

8394.5. The fee for the permit issued pursuant to Section 8394 shall be one hundred fifty dollars ($150). This permit fee shall not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2 or to the holder of a valid permit required under Article 17 (commencing with Section 8585) of Chapter 2.

SEC. 2. Article 17 (commencing with Section 8585) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 17. Experimental Limited Entry Northern California Swordfish Fishery

8585. The Legislature finds and declares as follows:

(a) That the swordfish resource in both California waters and Pacific-wide is in a healthy condition.

(b) That a limited entry experimental swordfish fishery for central and northern California should be established to allow increased access to the swordfish resource.

8585.1. There is hereby established an experimental limited entry swordfish fishery from Point Arguello north to the California-Oregon state border.

8585.2. Notwithstanding Sections 8394 and 8603, and except as provided in Section 8585.3, swordfish may not be taken for commercial purposes from Point Arguello north to the California-Oregon border with drift gill nets except under a nontransferable, revocable central California gill net swordfish permit issued annually by the department. These permits may be revoked or suspended by the commission upon a conviction of a willful violation of any provision of this article, or violation of any

condition of the permit by the permittee or the permittee's agent, servant, employee, or person acting under the permittee's direction or control.

8585.3. Persons who hold a valid drift gill net shark and swordfish permit may take shark and swordfish north of Point Arguello pursuant to Article 16 (commencing with Section 8560). Nothing in this article affects the use of gill nets otherwise authorized under this code.

8585.4. An application for a permit issued under this article shall be made on such forms and contain such information as the department may require. This permit requirement is in addition to any other commercial fishing requirements.

8585.5. Applications for a permit issued under Section 8585.2 for the 1984 season shall be delivered to an office of the department, or mailed with a postmark date, within 10 days, exclusive of Saturday, Sunday, and any holiday, after the effective date of this section.

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

8585.6. (a) Applications for reissue of a permit issued under this article pursuant to subdivision (c) of Section 8586.2 to persons who hold a permit issued in the previous year under this article which have not been revoked shall be delivered to an office of the department after January 31 and on or before April 1, or mailed to an office of the department with a postmark date after January 1 and on or before April 1.

(b) Applications for a permit issued under this article pursuant to subdivision (d) of Section 8592.4 shall be delivered to an office of the department after April 1 and on or before August 1 or mailed to an office of the department with a postmark date after April 1 and on or before August 1.

This section shall become operative January 1, 1985.

8585.7. If a drawing is held under Section 8592.4, it shall be held in the Monterey office of the department on the first Wednesday in September.

8585.8. (a) Except as provided in subdivision (b), the permittee shall be aboard the vessel and shall be in possession of a valid permit authorized pursuant to this article when engaged in operations authorized by the permit.

(b) A permittee may have any person serve in his or her place on the permittee's vessel and engage in fishing under the permittee's permit for not more than 15 calendar days in any one year, except that a longer period may be allowed in the event of serious illness. A permittee shall notify the department's Monterey office of a substitution of 15 days or less per calendar year, by certified letter or telegram, which is received at the Monterey office of the department between 8 a.m. and 5 p.m. between Monday and Friday, inclusive, excluding holidays, and which is received at that office at least 24 hours prior to the commencement of the trip. Written authorization for a substitution of greater than 15 days shall be obtained from the

director and shall be given only on the director's finding that the permittee will not be available to engage in the activity due to serious illness, supported by medical evidence. A substitution shall not be authorized for more than one year. An application for a substitution of greater than 15 days shall be made to the Department of Fish and Game Headquarters Office in Sacramento, and shall contain such information as the director may require. Any denial of the substitution may be appealed to the commission.

8585.9. When a person applies for a permit issued under this article, the person shall specify the vessel he or she will use in operations authorized by the permit and the permit shall be used on operations on that vessel. Transfer to another vessel shall be authorized by the department upon receipt of a written request from the permittee prior to commencing a trip on another vessel.

8586. Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The fishing record for each trip shall be completed before any fish is landed.

8586.1. A permit issued under this article shall only be issued to the owner or operator of a currently registered fishing vessel, who meets all of the following requirements:

(a) Has possessed one or more valid California commercial fishing licenses in each of at least 10 previous years.

(b) Has possessed a valid general gill net or trammel net permit authorized pursuant to Section 8681 prior to March 31, 1984.

(c) Possesses and has installed a gill net with a mesh size not less than 14 inches when stretched and a reel capable of retrieving the net.

8586.2. (a) The department shall issue not more than 35 permits under this article for any given year.

(b) If more than 35 qualified persons submit certified applications to the department in 1984, the department shall randomly draw 35 names of applicants from the qualified applications submitted to the department. To certify an application under this subdivision, the applicant shall first satisfy the requirements in subdivisions (a) and (b) of Section 8586.1. Before the department issues any permit under this subdivision, an applicant shall also satisfy the requirement in subdivision (c) of Section 8586.1, within six months after his or her application is drawn pursuant to this subdivision.

(c) After January 1, 1985, the department shall reissue permits under this article to persons holding a permit issued in the previous year under this article which has not been revoked, after receipt of a certified application therefor within the time period prescribed in subdivision (a) of Section 8585.6. To certify an application under this subdivision, the applicant shall first have satisfied all of the requirements of Section 8586.1.

(d) If the department receives fewer than 35 applications pursuant to subdivision (c), the department shall hold a random drawing from certified applications received within the time period

prescribed in subdivision (b) of Section 8585.6. To certify an application under this subdivision, the applicant shall first satisfy the requirements in subdivisions (a) and (b) of Section 8586.1. Before the department issues any permit under this subdivision, the applicant shall also satisfy the requirement in subdivision (c) of Section 8586.1 within six months after his or her application is drawn pursuant to this subdivision.

8586.3. A central California drift gill net swordfish permit issued under this article shall be valid unless revoked, from September 15 of the year of issue to January 31, inclusive, of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be one hundred fifty dollars ($150).

8586.4. Drift gill nets may be used to take swordfish under the permit provided in this article and are subject to the following restrictions:

(a) Nets shall not be in the water from two hours after sunrise to two hours before sunset.

(b) Nets greater than 6,000 feet in length shall not be used.

(c) Any end of the net not attached to the permittee's vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10 inches in any dimension except thickness. The permittee's permit number shall be permanently affixed to at least one buoy or float attached to the radar reflector staff. The permit number shall be at least 1½ inches in height and all markings shall be at least one-quarter inch in width.

8586.5. Drift gill nets with mesh size less than 14 inches in stretched mesh shall not be used to take swordfish by permittees operating under a drift gill net swordfish permit.

8586.6. Drift gill nets, used to take swordfish under the permit provided in this article, shall not be used:

(a) South of a line extending due west from Point Arguello.

(b) Within 12 nautical miles from the nearest point on the mainland shore.

(c) East of a line running from Point Reyes to Noonday Rock to the westernmost point of Southeast Farallon Island to Pillar Point.

8586.7. Drift gill nets shall not be used under a permit issued under this article from February 1 to September 14, inclusive.

8587. (a) Notwithstanding Section 8587.3, the director may close the limited entry swordfish fishery established under this article or any area in which this fishery is conducted, if, after a public hearing, the director determines the action is necessary to protect the swordfish or thresher shark and bonito (mako) shark resources.

(b) The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

8587.3. A permittee is subject to the provisions of this article whenever the permittee is using a drift gill net to take swordfish from Point Arguello north to the California-Oregon state border,

unless the permittee has surrendered his or her permit to the department. A permittee may surrender his or her permit by notifying the department's Monterey office of the permittee's intentions by telegram or certified letter and by sending or delivering the permit to a department office. A permittee may reclaim the permit at any time during regular working hours, if the permit has not been suspended or revoked.

8587.6. The department shall study the effect of this article on the thresher shark resource after the completion of the first full fishing season under this article and shall recommend to the Legislature any changes that are necessary in this article to protect the thresher shark resource.

8588. (a) The establishment of an experimental limited entry swordfish fishery under this article does not entitle the permittee to any preference relative to the southern California drift gill net shark and swordfish fishery now or in the future.

(b) The taking of marlin for commercial purposes is not permitted or encouraged.

(c) It is a misdemeanor for any person operating under a permit pursuant to this article to sell or possess for sale or personal use any marlin. In the event a marlin is taken incidentally in a drift gill net, the permittee shall notify the department immediately that the fish is on the boat. No marlin may be removed from the boat except for delivery to the department.

8589. This article shall remain in effect only until February 1, 1988, and as of that date is repealed unless a later enacted statute which is chaptered before February 1, 1988, deletes or extends that date.

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

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to be operative for the fishing season beginning September 15, 1984, it is necessary that it take effect immediately.

CHAPTER 818

An act to amend Section 25129 of the Government Code, relating to counties.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 25129 of the Government Code is amended to read:

25129. After the code has been adopted all ordinances thereafter adopted pertaining to the subjects therein shall be amendatory or revisory of the code. No section or subsection of the code shall be revised or amended by reference. The ordinance section or subsection revised or amended shall be adopted and published accompanied by a summary of the amended or revised ordinance prepared by an official designated by the county board of supervisors, with the names of those supervisors voting for and against the amendment. Nothing in this section shall preclude repealing or rendering inoperative by reference any section or subsection if language in the ordinance fairly identifies the subject matter of the sections or subsections which would be repealed or rendered inoperative by the ordinance.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 819

An act to add Section 969.6 to the Streets and Highways Code, relating to roads.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 969.6 is added to the Streets and Highways Code, to read:

969.6. Notwithstanding Section 969.5 or any other provision of this code, if a state of local emergency is declared by the board of supervisors as a result of locally heavy rainfall or flood, the board may authorize the expenditure of road funds for the purpose of emergency repairs to public roads which are not county highways and not in the county maintained system, without obtaining a grant or lease of right-of-way, if the repairs are necessary to provide minimum public access necessary for the protection or preservation of health or safety of residents. The county shall not be responsible for the maintenance of any road so repaired, and it shall not be liable for the condition of the road after the emergency repairs are made.

CHAPTER 820

An act to amend Sections 8952 and 9000 of the Health and Safety Code, relating to public cemetery districts.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 8952 of the Health and Safety Code is amended to read:

8952. The trustees shall hold office for four years and until the appointment and qualifications of their successors. The trustees may provide, by ordinance or resolution, that each member may receive an amount not to exceed fifty dollars ($50) for attendance at each public meeting. However, no trustee shall receive more than one hundred dollars ($100) in compensation in any calendar month. The necessary expenses of each trustee for actual traveling in connection with meetings or business of the board of trustees shall be allowed and paid.

SEC. 2. Section 9000 of the Health and Safety Code is amended to read:

9000. The trustees shall, on or before July 1, 1985, establish and create a fund to be known as "the endowment care fund," and, for this purpose, may set aside, use, and apply from any unexpended funds a sum which, in the judgment of the trustees, may be necessary or expedient to provide for the endowment care of the burial lots in the cemetery and for this purpose may receive property by grant, gift, devise, or any other method.

The trustees shall require a deposit in the endowment care fund for each burial right sold, which shall be established by the trustees

in an amount not less than the minimum amount set forth in Section 8738.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 821

An act to amend Section 1567.4 of, and to add Section 1555 to, the Health and Safety Code, and to add Section 740 to the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984]

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

SECTION 1. Section 1555 is added to the Health and Safety Code, to read:

1555. Whenever a license, registration, or special permit issued under this chapter for a community care facility is suspended, revoked, temporarily suspended, forfeited, canceled, or expires, the department shall provide written notice of that occurrence within 10 days to the local director of social services and the probation officer of the county in which the community care facility is located.

SEC. 2. Section 1567.4 of the Health and Safety Code is amended to read:

1567.4. The State Department of Social Services shall provide, at cost, quarterly to each county and to each city, upon the request of the county or city, and to the chief probation officer of each county and city and county, a roster of all community care facilities licensed as small family homes or group homes located in the county, which provide services to wards of the juvenile court, including information as to whether each facility is licensed by the state or the county, the type of facility, and the licensed bed capacity of each such facility. Information concerning the facility shall be limited to that available through the computer system of the State Department of Social Services.

SEC. 3. Section 740 is added to the Welfare and Institutions Code, to read:

740. (a) Any minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 and who is placed in a community care facility shall be placed in such a facility within his or her county of residence, unless he or she has identifiable needs requiring specialized care which cannot be provided in a local

facility, or unless his or her needs dictate physical separation from his or her family.

(b) Within 30 days after the placement of a minor adjudged to be a ward of the court on the basis that he or she is a person described in Section 602 in any community care facility outside the ward's county of residence, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send written notice of the placement, including the name of the ward, the juvenile record of the ward (including any known prior offenses), and the ward's county of residence, to the probation officer of the county in which the community care facility is located; with regard to this requirement, it is the intention of the Legislature that the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall make his or her best efforts to send, or to hand deliver, the notice at the same time the placement is made. When such a placement is terminated, the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of his or her case, shall send notice thereof to any person or agency receiving notification of the placement.

(c) A minor, the parent or guardian of any minor, and counsel representing a minor or the parent or guardian of a minor may petition the juvenile court for the review of any placement decision concerning the minor made by the probation officer pursuant to subdivision (a). The petition shall state the petitioner's relationship to the minor and shall set forth in concise language the grounds on which the review is sought. The court shall order that a hearing shall be held on the petition and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Section 776, and, in instances in which the means of giving notice is not prescribed by that section, then by such means as the court prescribes.

(d) As used in this section, "community care facility" shall be defined as provided in Section 1502 of the Health and Safety Code.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 822

An act to amend Sections 27021 and 27023 of the Elections Code, relating to elections.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 27021 of the Elections Code, as amended by Chapter 13 of the Statutes of 1984, is amended to read:

27021. The notice of intention shall be served by personal delivery, or by certified mail, on the officer sought to be recalled. Within seven days of serving the notice of intention, a copy thereof shall be filed, along with an affidavit of the time and manner of service, with the clerk or, in the case of the recall of a state officer, the Secretary of State. A separate notice of intention shall be filed for each officer sought to be recalled.

SEC. 2. Section 27023 of the Elections Code is amended to read:

27023. Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the clerk, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents. If an answer is filed, the officer shall, within seven days after the filing of the notice of intention, also serve a copy of it, by personal delivery or by certified mail, on one of the proponents named in the notice of intention.

CHAPTER 823

An act to add Article 1.5 (commencing with Section 45140) to Chapter 5 of Part 25 of the Education Code, relating to school employees.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Article 1.5 (commencing with Section 45140) is added to Chapter 5 of Part 25 of the Education Code, to read:

Article 1.5. Management and Confidential Employees

45140. The governing board of any school district which has not adopted the merit system pursuant to Article 5 (commencing with Section 45220) and Article 6 (commencing with Section 45240) may

contract with temporary-help employment agencies to fill vacancies of management and confidential employees without the necessity of complying with the requirements of this part.

The contracts for the services of temporary-help agency employees under this section shall not exceed 60 working days per position per approved leave period, not to exceed two per year.

CHAPTER 824

An act to amend Sections 148.1, 148.5, and 148.9 of the Penal Code, relating to peace officers.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any peace officer listed in Section 830.1 or 830.2, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy district attorney, employees of the Department of Justice, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been or will be placed or secreted in any public or private place knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(b) Any person who reports to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison or in the county jail not to exceed one year if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer, and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Any person who maliciously informs any other person that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that such information is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(d) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places or causes to be placed any false or facsimile bomb, with the intent that any

other person thinks it is a real bomb and with knowledge that it is a false or facsimile bomb, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

SEC. 2. Section 148.5 of the Penal Code is amended to read:

148.5. (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing such report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 that a felony or misdemeanor has been committed, knowing such report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

SEC. 3. Section 148.9 of the Penal Code is amended to read:

148.9. (a) Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any peace officer listed in Section 830.1 or 830.2, upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the investigating officer is guilty of a misdemeanor.

(b) Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, upon lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the arresting officer is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the perfomance of his or her duties as a peace officer, and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 825

An act to amend Sections 6200, 6201, 6202, 6203, 6204, and 6206 of the Business and Professions Code, relating to arbitration of attorneys' fees.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 6200 of the Business and Professions Code is amended to read:

6200. (a) The board of governors shall, by rule, establish, maintain, and administer a system and procedure for the arbitration of disputes concerning fees charged for professional services by members of the State Bar or by members of the bar of other jurisdictions. The rules may include provision for a filing fee in such amount as the board may, from time to time, determine.

(b) This article shall not apply to any of the following:

(1) Disputes where the attorney is also admitted to practice in another state, and he or she maintains no office in the State of California, and no material portion of the services were rendered in the State of California.

(2) Claims for affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct, except as provided in subdivision (a) of Section 6203.

(3) Disputes where the fee to be paid by the client or on his or her behalf has been determined pursuant to statute or court order.

(c) Arbitration under this article shall be voluntary for a client and shall be mandatory for an attorney if commenced by a client.

(d) The board of governors shall adopt rules to allow arbitration of attorney fee disputes under this article to proceed under arbitration systems sponsored by local bar associations in this state. Rules of procedure promulgated by local bar associations are subject to review by the board to insure that they provide for a fair, impartial, and speedy hearing and award. In adopting or reviewing these rules, the board may provide for one lay member of any arbitration panel of three arbitrators.

(e) In any arbitration conducted pursuant to this article by the State Bar or by a local bar association, pursuant to rules of procedure approved by the board of governors, the arbitrator or arbitrators, as well as the arbitrating association and its directors, officers, and employees, shall have the same immunity which attaches in judicial proceedings.

(f) In the conduct of arbitrations under this article the arbitrator or arbitrators may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

SEC. 2. Section 6201 of the Business and Professions Code is amended to read:

6201. (a) The rules adopted by the board of governors shall provide that, except as to an action filed in small claims court, an attorney shall forward a written notice to the client prior to or at the time of service of summons in an action against the client for recovery of fees covered by the provisions of this article. The written notice shall be in such form as the board of governors may prescribe, but shall include a statement of the client's right to arbitration under this article. Failure to give this notice shall be a ground for the dismissal of the action.

The rules adopted by the board of governors shall provide that the client's failure to request arbitration within 30 days after receipt of notice from the attorney shall be deemed a waiver of the client's right to arbitration under the provisions of this article.

(b) If an attorney, or the attorney's assignee, subject to the provisions of this article, commences an action in any court, other than a small claims court, and the dispute is not one to which subdivision (b) of Section 6200 applies, the client may stay the action by serving and filing a request for arbitration in accordance with the rules established by the board of governors pursuant to subdivision (a) of Section 6200. If, prior to the client initiating arbitration proceedings under this article, the attorney files an action against the client in small claims court for recovery of a fee covered by the provisions of this article, the small claims action, including any appeal, shall not be stayed under the provisions of this section, and the matter shall not be subject to arbitration under this article while the matter is pending in small claims court or after judgment is given in that court. The request for arbitration shall be served and filed prior to the filing of an answer in the action; failure to so request arbitration prior to the filing of an answer shall be deemed a waiver of the client's right to arbitration under the provisions of this article if notice of the client's right to arbitration was given pursuant to subdivision (a).

(c) Upon filing and service of the request for arbitration, the action shall be stayed, without the necessity of court order, until the award of the arbitrators is issued or the arbitration is otherwise terminated. The stay may be vacated in whole or in part, after a hearing duly noticed by any party or the court, if the court finds that the matter, or any part of it, is not an appropriate one for arbitration under the provisions of this article. The action may thereafter proceed subject to the provisions of Section 6204.

(d) A client's right to request or maintain arbitration under the provisions of this article is waived by the commencement of an action or the filing of any pleading by the client seeking judicial resolution of a fee dispute to which this article applies, or seeking affirmative

relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

SEC. 3. Section 6202 of the Business and Professions Code is amended to read:

6202. The provisions of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code shall not prohibit the disclosure of any relevant communication, nor shall the provisions of Section 2016 of the Code of Civil Procedure be construed to prohibit the disclosure of any relevant work product of the attorney in connection with: (1) an arbitration hearing pursuant to this article; (2) a trial after arbitration; or (3) judicial confirmation, correction, or vacation of an arbitration award. In no event shall such disclosure be deemed a waiver of the confidential character of such matters for any other purpose.

SEC. 4. Section 6203 of the Business and Professions Code is amended to read:

6203. (a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy. The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver to each of the parties with the award, an original declaration of service of the award.

The arbitrators may receive evidence relating to claims of malpractice and professional misconduct, but only to the extent that those claims bear upon the fees to which the attorney is entitled. The arbitrators shall not award affirmative relief, in the form of damages or offset or otherwise, for injuries underlying any such claim. Nothing in this section shall be construed to prevent the arbitrators from awarding a refund of unearned prepaid fees.

(b) Even if the parties to the arbitration have not agreed in writing to be bound, the arbitration award shall become binding upon the passage of 30 days after mailing of notice of the award, unless a party has, within the 30 days, sought a trial after arbitration pursuant to Section 6204. If an action has previously been filed in any court, any petition to confirm, correct, or vacate the award shall be to the court in which the action is pending, and may be served by mail on any party who has appeared, as provided in Chapter 4 (commencing with Section 1003) of Title 14 of Part 2 of the Code of Civil Procedure; otherwise it shall be in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure. If no action is pending in any court, the award may be confirmed, corrected, or vacated by petition to the court having jurisdiction over the amount of the arbitration award, but otherwise in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

(c) A court confirming, correcting, or vacating an award under this section may award to the prevailing party reasonable fees and

costs including, if applicable, fees or costs on appeal, incurred in obtaining confirmation, correction, or vacation of the award. The party obtaining judgment confirming, correcting, or vacating the award shall be the prevailing party except that, without regard to consideration of who the prevailing party may be, if a party did not appear at the arbitration hearing in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to attorney's fees or costs upon confirmation, correction, or vacation of the award.

SEC. 5. Section 6204 of the Business and Professions Code is amended to read:

6204. (a) The parties may agree in writing to be bound by the award of the arbitrators. In the absence of such an agreement, either party shall be entitled to a trial after arbitration. Either party shall be entitled to a trial after arbitration if sought within 30 days, pursuant to subdivisions (b) and (c).

(b) If there is an action pending, the trial after arbitration shall be initiated by filing a rejection of arbitration award and request for trial after arbitration in that action within 30 days after mailing of notice of the award. If the rejection of arbitration award has been filed by the plaintiff in the pending action, all defendants shall file a responsive pleading within 30 days following service upon the defendant of the rejection of arbitration award and request for trial after arbitration. If the rejection of arbitration award has been filed by the defendant in the pending action, all defendants shall file a responsive pleading within 30 days after the filing of the rejection of arbitration award and request for trial after arbitration. Service may be made by mail on any party who has appeared; otherwise service shall be made in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure. Upon service and filing of the rejection of arbitration award, any stay entered pursuant to Section 6201 shall be vacated, without the necessity of a court order.

(c) If no action is pending, the trial after arbitration shall be initiated by the commencement of an action in the court having jurisdiction over the amount of money in controversy within 30 days after mailing of notice of the award. After the filing of such an action, the action shall proceed in accordance with the provisions of Part 2 (commencing with Section 307) of the Code of Civil Procedure, concerning civil actions generally.

(d) The party seeking a trial after arbitration shall be the prevailing party if that party obtains a judgment more favorable than that provided by the arbitration award, and in all other cases the other party shall be the prevailing party. The prevailing party may, in the discretion of the court, be entitled to an allowance for reasonable attorneys' fees and costs incurred in the trial after arbitration, which allowance shall be fixed by the court. Without regard to consideration of who the prevailing party may be, if a party does not appear at the arbitration hearing in the manner provided

by the rules adopted by the board of governors, that party shall not be entitled to attorneys' fees upon a trial after arbitration. In fixing the attorneys' fees, the court shall consider the award and determinations of the arbitrators, in addition to any other relevant evidence.

(e) Except as provided in this section, the award and determinations of the arbitrators shall not be admissible nor operate as collateral estoppel or res judicata in any action or proceeding.

SEC. 6. Section 6206 of the Business and Professions Code is amended to read:

6206. The time for filing a civil action seeking judicial resolution of a dispute subject to arbitration under this article shall be tolled from the time an arbitration is initiated in accordance with the rules adopted by the board of governors until (a) 30 days after receipt of notice of the award of the arbitrators, or (b) receipt of notice that the arbitration is otherwise terminated, whichever comes first. Arbitration may not be commenced under this article if a civil action requesting the same relief would be barred by any provision of Title 2 (commencing with Section 312) of Part 2 of the Code of Civil Procedure; provided that this limitation shall not apply to a request for arbitration by a client, pursuant to the provisions of subdivision (b) of Section 6201, following the filing of a civil action by the attorney.

CHAPTER 826

An act to amend Section 21655.5 of the Vehicle Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 21655.5 of the Vehicle Code is amended to read:

21655.5. The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may authorize or permit exclusive or preferential use of highway lanes for high-occupancy vehicles. Prior to establishing the lanes, competent engineering estimates shall be made of the effect of the lanes on safety, congestion, and highway capacity.

The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, shall place and maintain, or cause to be placed and maintained, signs and other official traffic control devices to designate the exclusive or preferential lanes, to advise motorists of the applicable vehicle

occupancy levels, and, except where ramp metering and bypass lanes are regulated with the activation of traffic signals, to advise motorists of the hours of high-occupancy vehicle usage. No person shall drive a vehicle upon those lanes except in conformity with the instructions imparted by the official traffic control devices.

It is the intent of the Legislature, in amending this section, to stimulate and encourage the development of ways and means of relieving traffic congestion on California highways and, at the same time, to encourage individual citizens to pool their vehicular resources and thereby conserve fuel and lessen emission of air pollutants.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Significant congestion of traffic, at times other than normal rush hours, is expected during the Olympic Games. In order to aid in alleviating this traffic problem, it is necessary that this act take effect immediately.

CHAPTER 827

An act to amend Section 987.88 of the Military and Veterans Code, relating to veterans' farm and home purchase.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 987.88 of the Military and Veterans Code is amended to read:

987.88. (a) In the event the department enters into a master agreement with one or more insurance companies to provide life or disability insurance coverage for the purchasers of farms and homes from the department, the master agreement shall provide that the life insurance will be offered to purchasers who are disabled solely as a result of their qualifying military service and to nondisabled purchasers on an equal basis and that no purchaser shall be denied coverage solely because that purchaser has a qualifying military service-connected disability at the time of application. Notwithstanding Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code, any such life or disability insurance shall be a form of group life or group disability insurance.

(b) The master agreement may provide for maintenance of such reserves as the department, after consultation with the Insurance Commissioner, deems appropriate and prudent, and the department may use from time to time any accumulated surplus in those

reserves, or any refunds or returns therefrom upon termination of the agreement, for the purposes of this article or of any veterans general obligation or revenue bond act. Any and all acts of the department in maintaining and using the reserves consistent with this subdivision are hereby ratified and confirmed, it having at all times been the intent of the Legislature that reserves be maintained and that any surpluses therein or refunds or returns therefrom be used by the department for the purposes stated in this subdivision.

(c) Notwithstanding subdivision (b), on and after January 1, 1987, any reserves maintained under the master agreement shall not exceed a level greater than 20 percent in excess of actuarial requirements plus a reasonable contingency reserve, as determined annually by the department, and the department may contract with one or more independent actuaries or actuarial firms to assist the department in the annual determination.

CHAPTER 828

An act to add Section 10241.3 to the Business and Professions Code, relating to real property loans.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 10241.3 is added to the Business and Professions Code, to read:

10241.3. In any loan transaction in which a fee is charged to a borrower for an appraisal of the real property that will serve as security for the loan, a copy of the appraisal report shall be given by or on behalf of the broker to both the borrower and the lender at or before the closing of the loan transaction.

CHAPTER 829

An act to amend Section 54776.1 of the Government Code, relating to local agency formation commissions.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 54776.1 of the Government Code is amended to read:

54776.1. On or before the 10th day of June the commission shall

prepare and transmit to the board of supervisors an estimate of the amount of money needed for the purposes prescribed by Section 54776 during the following fiscal year. The board of supervisors shall provide for the use of the commission during such fiscal year not less than the amount of money equal to any one of the following which the board of supervisors deems appropriate.

(a) The amount fixed by the commission.

(b) The amount provided in the prior fiscal year increased by the same percentage as the appropriations limit of the county for such fiscal year will be increased from the prior fiscal year.

(c) The amount determined in (b) plus any additional amount the board deems necessary.

The county auditor shall audit and allow or reject all claims for expenditures for county charges incurred pursuant to the provisions of this chapter in lieu of, and with the same effect as, allowance or rejection of claims by the board of supervisors.

CHAPTER 830

An act to amend Section 41352 of, and to add Sections 49557 and 49558 to, the Education Code, relating to schools.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984]

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

SECTION 1. Section 41352 of the Education Code is amended to read:

41352. The State Department of Education shall make allowances to school food authorities and child care food program sponsors from the State Child Nutrition Fund on a monthly basis. Program providers shall submit claims to the department within 10 calendar days of the end of each month. Claims submitted after 60 calendar days or more from the end of the period for which reimbursement is claimed shall be invalid. Within 45 calendar days of submission of a valid claim, the State Department of Education shall tender reimbursement.

SEC. 2. Section 49557 is added to the Education Code, to read:

49557. (a) The governing board of a school district and the county superintendent of schools shall make applications for free or reduced price meals available to students at all times during each regular schoolday. The application shall contain, in at least 8-point bold face type, each of the following statements:

(1) Applications for free and reduced price meals may be submitted at any time during a schoolday.

(2) Children participating in the National School Lunch Program will not be overtly identified by the use of special tokens, special

tickets, special serving lines, separate entrances, separate dining areas, or by any other means.

A school district and the county superintendent of schools shall use all other applications it has for free or reduced price meals before utilizing the applications pursuant to this subdivision.

(b) The governing board of each school district and each county superintendent of schools shall formulate a plan, which shall be mailed to the State Department of Education for its approval, that will ensure that children eligible to receive free or reduced priced meals and milk shall not be treated differently from other children. These plans shall ensure each of the following:

(1) The names of the children shall not be published, posted, or announced in any manner, or used for any other purpose other than the National School Lunch Program.

(2) There shall be no overt identification of any of the children by the use of special tokens or tickets or by any other means.

(3) The children shall not be required to work for their meals or milk.

(4) The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance, or consume their meals or milk at a different time.

(e) When more than one lunch or breakfast or type of milk is offered pursuant to this article, the children shall have the same choice of meals or milk that is available to those children who pay the full price for their meal or milk.

SEC. 3. Section 49558 is added to the Education Code, to read:

49558. All applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to free or reduced price meal eligibility shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of any such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 831

An act to amend Sections 18023, 18025, and 18026 of the Education Code, relating to public libraries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 18023 of the Education Code is amended to read:

18023. On or before August 31, 1982, and October 31 of each fiscal year thereafter, the fiscal officer of each public library shall report to the State Librarian the total revenue appropriated for the foundation program of the public library for that fiscal year and shall specify the amount of local revenue included in such total appropriation. For the purposes of this chapter, homeowner and business inventory exemption reimbursements, timber yield tax funds, and federal revenue sharing funds shall be deemed to be local revenues.

SEC. 2. Section 18025 of the Education Code is amended to read:

18025. (a) For the 1982–83 fiscal year and each fiscal year thereafter, the State Librarian shall determine the amount to which each public library is entitled for support of the library during the fiscal year. The amount shall be equal to 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(b) In the event local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under the provisions of Chapter 282 of the Statutes of 1979, total less than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall be reduced proportionately.

(c) In the event local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under the provisions of Chapter 282 of the Statutes of 1979, total more than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall remain at 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(d) In order for a public library to receive state funds under this chapter in the 1983–84 fiscal year and any fiscal year thereafter, the total amount of local revenues appropriated for the public library for that fiscal year, including tax revenues made available under the provisions of Chapter 282 of the Statutes of 1979 and other revenues deemed to be local revenues according to Section 18023, shall be equal to at least the total amount of local revenues, as defined,

appropriated for the public library in the previous fiscal year. State funds provided under this chapter shall supplement, but not supplant, local revenues appropriated for the public library.

(e) In the event that the state allocations computed pursuant to this section exceed the total amount of funds appropriated for such purposes in any fiscal year, the State Librarian shall adjust on a pro rata basis public library allocations prescribed by this section so that the total amount in each fiscal year does not exceed this amount.

SEC. 3. Section 18026 of the Education Code is amended to read:

18026. Commencing with the 1984–85 fiscal year, the State Librarian shall certify to the Controller on or before November 15, 1984, and on or before each November 15 thereafter, the amounts determined in Section 18025. The Controller shall distribute to the fiscal officer of each public library 100 percent of the amount certified by the State Librarian on or before January 15 of the 1984–85 fiscal year, and on or before each January 15 thereafter.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the changes made in this act may take effect for the 1984-85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 832

An act to amend Section 3545 of the Government Code, relating to public school employer-employee relations.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 3545 of the Government Code is amended to read:

3545. (a) In each case where the appropriateness of the unit is an issue, the board shall decide the question on the basis of the community of interest between and among the employees and their established practices including, among other things, the extent to which such employees belong to the same employee organization, and the effect of the size of the unit on the efficient operation of the school district.

(b) In all cases:

(1) A negotiating unit that includes classroom teachers shall not be appropriate unless it at least includes all of the classroom teachers employed by the public school employer, except management employees, supervisory employees, and confidential employees.

(2) Except as provided in subdivision (c), a negotiating unit of supervisory employees shall not be appropriate unless it includes all supervisory employees employed by the district and shall not be represented by the same employee organization as employees whom the supervisory employees supervise.

(3) Classified employees and certificated employees shall not be included in the same negotiating unit.

(c) In the case of a district which employs 20 or more supervisory peace officer employees, a negotiating unit of supervisory employees shall be appropriate if it includes any of the following:

(1) All supervisory nonpeace officer employees employed by the district and all supervisory peace officer employees employed by the district.

(2) All supervisory nonpeace officer employees employed by the district, exclusively.

(3) All supervisory peace officer employees employed by the district, exclusively.

A negotiating unit of supervisory employees shall not be represented by the same employee organization as employees whom the supervisory employees supervise.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 833

An act to add Section 593f to the Penal Code, relating to communications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 593f is added to the Penal Code, to read:

593f. Every person who for profit knowingly and willfully manufactures, distributes, or sells any device or plan or kit for a device, or printed circuit containing circuitry for decoding or

addressing with the purpose or intention of facilitating decoding or addressing of any over-the-air transmission by a Multi-point Distribution Service or Instructional Television Fixed Service made pursuant to authority granted by the Federal Communications Commission which is not authorized by the Multi-point Distribution Service or the Instructional Television Fixed Service is guilty of a misdemeanor punishable by a fine not exceeding two thousand five hundred dollars ($2,500) or by imprisonment in the county jail not exceeding 90 days, or both.

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

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

The need for legislative protection from piracy and other unauthorized reception of over-the-air transmissions has become increasingly urgent to protect the television industry, especially in light of the inadequate protection against illicit activities provided by existing law, and it is therefore necessary that this act go into effect immediately.

CHAPTER 834

An act to amend Section 3070 of the Labor Code, relating to apprenticeship.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 3070 of the Labor Code is amended to read:

3070. There is in the Division of Apprenticeship Standards the California Apprenticeship Council, which shall be appointed by the Governor, composed of six representatives each from employer and employee organizations, respectively, geographically selected, and of two representatives of the general public. The Director of Industrial Relations, or his or her permanent and best qualified designee, and the Superintendent of Public Instruction, or his or her permanent and best qualified designee, and the Chancellor of the California Community Colleges, or his or her permanent and best

qualified designee, shall also be members of the California Apprenticeship Council. The chairman shall be elected by vote of the California Apprenticeship Council. Beginning with appointments in 1985, three representatives each of employers and employees, and one public representative shall serve until January 15, 1989. In 1987, three representatives each of the employers and employees, and one public representative shall serve until January 15, 1991. Any member whose term expires on January 15, 1986, shall continue to serve until January 15, 1987. Thereafter each member shall serve for a term of four years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor shall be appointed for the remainder of that term. Each member of the council shall receive the sum of fifty dollars ($50) for each day of actual attendance at meetings of the council, for each day of actual attendance at hearings by the council or a committee thereof pursuant to Section 3082, and for each day of actual attendance at meetings of other committees established by the council and approved by the Director of Industrial Relations, together with his or her actual and necessary traveling expenses incurred in connection therewith.

CHAPTER 835

An act to amend Section 4789, 4789.2, and 4789.3 of, to add a chapter heading (immediately preceding Section 4789) to Part 2 of Division 4 of, and to repeal the heading of Chapter 12 (immediately following Section 4789.7) of Part 2 of Division 4 of, the Public Resources Code, relating to forest and rangeland resources.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. A chapter heading (immediately preceding Section 4789) is added to Part 2 of Division 4 of the Public Resources Code, to read:

CHAPTER 12. FOREST AND RANGELAND RESOURCES ASSESSMENT AND POLICY ACT OF 1977

SEC. 2. Section 4789 of the Public Resources Code is amended to read:

4789. This chapter shall be known and may be cited as the Forest and Rangeland Resources Assessment and Policy Act of 1977.

SEC. 3. Section 4789.2 of the Public Resources Code is amended to read:

4789.2. As used in this chapter:

(a) "Board" means State Board of Forestry.

(b) "Resources Planning Act" means the Forest and Rangelands Renewable Resources Planning Act of 1974 (16 U.S.C. 1601-1610).

(c) "Assessment" means the forest resource assessment and analysis developed pursuant to Section 4789.3.

(d) "Director" means the Director of Forestry.

(e) "Forest and rangeland resources" means those uses and values associated with, attainable from, or closely tied to, forest and rangelands, including fish, range, recreation, timber, watershed, wilderness, and wildlife.

(f) "Forest land" means timberland defined pursuant to subdivision (h), and other lands which have been withdrawn from timber production, such as state parks, national parks, and wilderness areas.

(g) "Timberland" means land on which is growing a significant stand of trees of commercial species, or potential commercial species, either in public or private ownership or which is generally capable of maintaining a stand of trees in perpetuity and not withdrawn or otherwise devoted to uses other than timber production.

(h) "Timber" means wood fiber of commercial or potential commercial species growing on timberland as defined in subdivision (g).

(i) "Rangeland" means land on which the existing vegetation, whether growing naturally or through management, is suitable for grazing or browsing of domestic livestock for at least a portion of the year. Rangeland includes any natural grasslands, savannas, shrublands (including chaparral), deserts, wetlands, and woodlands (including Eastside ponderosa pine, pinyon, juniper, and oak) which support a vegetative cover of native grasses, grasslike plants, forbs, shrubs, or naturalized species.

SEC. 4. Section 4789.3 of the Public Resources Code is amended to read:

4789.3. (a) Under policy guidance from the board and in consultation with the Secretary of the Resources Agency, the director shall prepare and submit to the board and the Secretary of the Resources Agency, a preliminary forest and rangeland resource assessment and analysis not later than July 1, 1979, and shall present a full and updated assessment by January 1, 1987, and by January 1 of each fifth year thereafter. The assessment and analysis shall recognize distinct differences in ownership and management of forest and rangeland resources in California between the various public and the various private owners and shall include, but not be limited to, the following:

(1) An assessment and analysis of the supply and availability of the various present and potential forest and rangeland resources of the state, including limits to those supplies imposed by natural site conditions, such as slope stability and erosion hazard, or by governmental restriction, such as special zoning. Among resource

potentials to be evaluated are opportunities to:

(A) Improve and rehabilitate the understocked timberland in California and to more fully utilize the productive potential for growing and harvesting timber.

(B) Improve wood fiber utilization and wood product recycling.

(C) Salvage trees infested with insects and diseases on timberland.

(D) Improve the management of forest wildlife and wildlife habitat within the state.

(E) Increase the quantity and quality of recreation available in the state.

(F) Improve and rehabilitate rangeland areas within the state.

(G) Increase the potential to use wood fiber from timberland as an economically viable source of fuel for energy production.

(H) Improve the potential for rangeland forage for domestic livestock production.

(2) An assessment and critique of federal policies with respect to rangeland and timberland.

(3) An analysis of present and anticipated demand for various forest and rangeland resources in the state.

(4) A description and evaluation of current state programs and responsibilities in cooperative state-federal forest and rangeland resource programs, and management of state and local public forest, range, and related lands.

(5) A discussion of important policy considerations, laws, regulations, management responsibilities, and other factors expected to influence and significantly affect the use, ownership, and management of forest and rangeland resources.

(6) When assessing various resource potentials which could be obtained from forest lands and rangeland, the director shall include an evaluation of probable direct and indirect economic and environmental benefits and costs, including opportunity costs, associated with realizing those potentials.

(b) In preparing the assessment, the director, under policy guidance of the board, shall solicit the cooperation of, and information collected by, public and private organizations, federal forest and rangeland resource agencies, state agencies concerned with forest and rangeland resources, county planning and taxation agencies, and state-supported forest and rangeland resource research agencies.

(c) For the purpose of assisting the director and the board in preparing the assessment and its revisions, the board may appoint advisory committees it deems necessary. The committees shall consist of individuals with expertise in forest and rangeland resource fields, with particular emphasis on survey and program analysis, and shall include representatives of state agencies concerned with the use of forest and rangeland resources.

(d) In preparation of the assessment the director shall:

(1) Analyze the need to develop and maintain an effective system

for the collection, analysis, and display of that data in forms that contribute to the achievement of the purposes of this chapter.

(2) Identify high-priority needs for completing the data base and analytical framework essential to improving the quality of future assessments.

(3) Evaluate the accuracy and completeness of existing data and of steps needed to improve the accuracy and completeness of data for future assessments.

SEC. 5. The chapter heading of Chapter 12 (immediately following Section 4789.7) of Part 2 of Division 4 of the Public Resources Code is repealed.

CHAPTER 836

An act to add Chapter 3.7 (commencing with Section 15820.30) to Part 10b of Division 3 of Title 2 of the Government Code, relating to educational facilities.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Chapter 3.7 (commencing with Section 15820.30) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.7. LIBRARIES AND RELATED EDUCATIONAL FACILITIES IN PUBLIC UNIVERSITIES

Article 1. General Provisions

15820.30. The Legislature finds and declares that California's public colleges and universities, recognized as being among the world's finest, require assistance in the development of library and related educational facilities, which will help to educate and prepare individuals for tomorrow's high technology society. To this end, the Legislature finds that it is in the public interest, and for the public benefit, to construct or renovate and equip libraries and related educational facilities for use as research and educational centers that may be lease-purchased by the University of California and leased or lease-purchased by the California State University, the California Maritime Academy, and the California Community Colleges.

15820.31. It is the intent of the Legislature that the cost of any project authorized by statute pursuant to this chapter shall be considered an expenditure of state funds in the fiscal year in which payments are made to the State Public Works Board under the terms of the lease or lease-purchase agreement.

Article 2. Library Facilities

15820.35. The board is authorized to, and may, finance the construction or renovation, and the equipping, of public buildings or facilities on a site or sites within the University of California, the California State University, the California Maritime Academy, and the California Community College districts, as agreed upon with the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and the California Community College districts, respectively.

15820.36. Any public building or facility which is constructed or renovated and equipped pursuant to this chapter shall be utilized only for library and related educational purposes, as set forth in this chapter.

15820.37. The board shall lease-purchase to the Regents of the University of California and lease or lease-purchase to the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and to the California Community College districts, upon approval of the Board of Governors of the California Community Colleges, pursuant to Section 81800 and following sections of the Education Code, any public building or facility constructed or renovated and equipped pursuant to this chapter, the term and the amount to be determined by mutual agreement of the parties. The lease-purchase agreement or the lease shall provide that the public building or facility shall be utilized only for library and related educational activities, as set forth in this chapter. The board shall contract with the lessee for all activities required to plan, construct, renovate, and equip these facilities.

Article 3. Construction Financing

15820.40. (a) The board may issue certificates pursuant to Chapter 4 (commencing with Section 15821) or revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of construction or renovation and the equipping of the public buildings or facilities authorized by this chapter.

(b) The revenues, rentals, or receipts from the public buildings or facilities and equipment authorized by this chapter shall be pledged to the payment of the principal of, and the interest on, the certificates, revenue bonds, notes, or anticipation notes issued to finance the construction or renovation and the equipping of those public buildings or facilities.

(c) No certificates, revenue bonds, notes, or anticipation notes shall be issued, and no construction or renovation or equipping for any public building or facility authorized by this chapter shall be commenced or purchased, unless the Legislature, by statute, authorizes the total amount of certificates, revenue bonds, notes, or

anticipation notes that may be issued to finance that public building or facility and expressly approves the construction thereof.

CHAPTER 837

An act to add Section 11312 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 11312 is added to the Welfare and Institutions Code, to read:

11312. (a) As used in this section, the term "refugee," is defined as that term is defined in the Federal Refugee Act of 1980 (P.L. 96-212).

(b) A refugee required to participate in the WIN program pursuant to Section 11310 shall be required, as a condition of eligibility under this chapter, and subject to the sanctions specified in Section 11308, to participate in programs funded by the Federal Office of Refugee Resettlement if these programs are deemed by the department as appropriate programs to prepare a refugee for employment.

(c) A refugee participating in the WIN program pursuant to this section shall have the same rights to receive support services as any other WIN program participant.

(d) A refugee participating in the WIN program pursuant to this section shall have all rights provided to any other WIN program recipient pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code.

(e) (1) The department, together with the State Department of Social Services, shall seek additional federal funding to pay for allowances, training-related expenses, work-related expenses, incentive payments, and other supportive service payments.

(2) Except for this subdivision, the provisions of this section shall be implemented only if adequate federal funding is made available. In determining whether adequate funds are available, pursuant to this paragraph, federal work-incentive program funding shall not be included. It is the intent of this section to seek federal funding for the costs associated with statewide implementation of the referral of all refugees eligible for the WIN program to programs funded by the federal Office of Refugee Resettlement. Nothing in this section shall, however, be construed to require the termination of the provision of training-related expenses, work-related expenses, or stipends, currently received by refugees through WIN program funds, if federal funds are not obtained pursuant to this section.

CHAPTER 838

An act to amend Section 1208.5 of the Penal Code, relating to work furlough.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 1208.5 of the Penal Code is amended to read:

1208.5. The boards of supervisors of two or more counties having work furlough programs may enter into agreements whereby a person sentenced to, or imprisoned in, the jail of one county, but regularly residing in another county or regularly employed in another county, may be transferred by the sheriff of the county in which he or she is confined to the jail of the county in which he or she resides or is employed, in order that he or she may be enabled to continue in his or her regular employment or education in such other county through such county's work furlough program. Such agreement may make provision for the support of transferred persons by the county from which they are transferred. The board of supervisors of any county may, by ordinance, delegate the authority to enter into such agreements to the work furlough administrator.

CHAPTER 839

An act to amend Sections 7204, 7211, and 7217 of, and to repeal Section 7203.5 of, the Business and Professions Code, relating to guide dogs for the blind.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 7203.5 of the Business and Professions Code is repealed.

SEC. 2. Section 7204 of the Business and Professions Code is amended to read:

7204. The secretary shall keep all the records of the board and discharge such other duties as the board shall, from time to time, prescribe.

SEC. 3. Section 7211 of the Business and Professions Code is amended to read:

7211. Each applicant for a license hereunder shall file an

application with the secretary of the board at least 10 days before the date fixed for examination, and shall pay to the secretary at the time of filing an application the sum of twenty-five dollars ($25). No license shall be granted until the applicant has satisfactorily completed the examination prescribed by the board and has shown that he or she is equipped by a school or by equivalent facilities satisfactory to the board to give blind persons at least four weeks' training under traffic conditions. An annual fee of five dollars ($5) shall be required for the renewal of a license.

All fees received under this chapter shall be deposited in the General Fund.

SEC. 4. Section 7217 of the Business and Professions Code is amended to read:

7217. (a) Within sixty days after the end of a calendar year or after the termination of the fiscal year of a school, there shall be furnished to the board the following:

(1) A list of students accepted for training and those who have completed training.

(2) A list of the number of dogs trained.

(b) Within 180 days after the end of a calendar year or after the termination of the fiscal year of a school, there shall be furnished to the board an independent audit of the school's finances by a certified public accountant licensed by this state.

CHAPTER 840

An act to add Section 454.4 to the Public Utilities Code, relating to public utilities.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 454.4 is added to the Public Utilities Code, to read:

454.4. The commission shall establish rates for gas which is utilized in cogeneration technology projects not higher than the rates established for gas utilized as a fuel by an electric plant in the generation of electricity, except that this rate shall apply only to that quantity of gas which an electrical corporation serving the area where a cogeneration technology project is located, or an equivalent area, would require in the generation of an equivalent amount of electricity based on the corporation's average annual incremental heat rate and reasonable transmission losses or that quantity of gas actually consumed by the cogeneration technology project in the sequential production of electricity and steam, heat, or useful work, whichever is the lower quantity.

CHAPTER 841

An act to amend Section 1463.16 of the Penal Code, relating to driving offenses.

[Approved by Governor August 31, 1984. Filed with Secretary of State August 31, 1984.]

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

SECTION 1. Section 1463.16 of the Penal Code is amended to read:

1463.16. (a) Except as provided in subdivision (b) and notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) of each fine for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to a specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs shall be certified by the State Department of Alcohol and Drug Programs or shall apply for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(b) In a county of the first, second, or fifteenth class, notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to a specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs shall be certified by the State Department of Alcohol and Drug Programs or shall apply for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(c) It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services

as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

(d) Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement. The State Department of Alcohol and Drug Programs may charge a fee to offset the costs of certifying programs.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 842

An act to add and repeal Article 1.7 (commencing with Section 230) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Article 1.7 (commencing with Section 230) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 1.7. The Infant Botulism Prevention Program

230. The Legislature finds and declares all of the following:

(a) Infant botulism, a disease caused by spores of the botulism bacteria that are able to infect and grow in the infant intestine, is a serious health threat to infants.

(b) Over one-half of the world's recognized cases of infant botulism have occurred in California, where the bacterial spores are known to be highly endemic.

(c) Since January 1, 1984, there has been a five-fold increase in the number of infants contracting botulism.

(d) Evidence suggests that infant botulism accounts for at least 5 percent of the more than 8,000 cases of sudden infant death that occur annually in the United States.

(e) Research into the causes, prevention, and medical treatment of this disease, as well as monitoring cases of infant botulism and providing medical consultation for the care of infants with this disease, is necessary for the public health.

(f) Based on current estimates of the number of infant botulism cases expected during 1984, the cost of infant botulism to California residents this year could approach six million seven hundred fifty thousand dollars ($6,750,000), much of which will be compensated by the state through the California Children's Services Program.

(g) The Infant Botulism Prevention Project of the state department is the only project of its kind in the world and is the acknowledged leader in the research and prevention of this disease.

(h) Federal funding for the Infant Botulism Prevention Project is scheduled to expire.

231. The Infant Botulism Prevention Program shall be administered by, and become a continuing program of, the state department, to the extent that funding is provided in the Budget Act. To accomplish the objectives of this program, the state department may, to the extent that its staff and facilities permit, implement the program itself, or it may contract portions of the program to nonprofit health organizations with prior experience with projects aimed at the causes, prevention, and control of infant botulism.

232. The Infant Botulism Prevention Program shall provide all of the following at a minimum:

(a) Diagnostic, medical, and public health expertise about infant botulism to all physicians, hospitals, laboratories, and parents statewide.

(b) Investigation of all cases of infant botulism occurring on and after January 1, 1985, in this state, with both field and laboratory techniques, in order to acquire the broadest data base for prevention and optimal treatment.

(c) Development and implementation of control measures that will prevent infant botulism and its associated percentage of sudden infant death cases in California.

(d) Collaboration with appropriate university and hospital institutions, as determined by the state department, that have resources to contribute expertise to study the problem of infant botulism.

233. The state department shall report to the Legislature on or before March 1, 1985, on the Infant Botulism Prevention Program. The report shall include all of the following:

(a) The number of infants evaluated or treated for infant botulism.

(b) The identified causes of infant botulism.

(c) Any measures developed to control and prevent infant botulism.

234. This article shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

CHAPTER 843

An act to amend Section 4700.2 of the Penal Code, and to repeal Section 2 of Chapter 1671 of the Statutes of 1971, relating to crimes.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 4700.2 of the Penal Code is amended to read:

4700.2. Whenever a trial is had in which a crime committed in furtherance of or in connection with a violation of Section 4530 of the Penal Code is charged, or whenever a trial is had for conspiracy in a case where one or more objectives of the conspiracy is an escape from the custody of the Department of Corrections, the county or counties in which the pretrial proceedings and trial are held shall prepare a statement of the costs incurred in connection with the trial. The statement of costs shall be approved by the presiding judge of the superior court and shall include all costs incurred by the county including, but not limited to, salaries and expenses incurred by the district attorney in investigation and prosecution, by the sheriff in investigation and custody, by the public defender or court-appointed attorney or attorneys in investigation and defense, witness fees and expenses, reporter fees, transcription costs, necessary courtroom security reasonably required to protect the court and participants, and other direct trial costs. Trial shall be deemed to include all pretrial hearings and post-conviction proceedings, if any.

The statement of costs shall be sent to the Controller who shall examine and audit it for the purpose of determining whether it complies with the provisions of this section. The Controller shall cause the amount of such costs as he determines comply herewith to be paid to the county out of appropriate funds. If sufficient funds are not available, the Controller shall include any amounts necessary to satisfy such claims in a request for a deficiency appropriation. Any crime committed by an escaped prisoner within 10 days after the escape and within 100 miles of the facility from which the escape occurred shall be presumed to have been a crime committed in furtherance of escape for the purposes of this section.

SEC. 2. Section 2 of Chapter 1671 of the Statutes of 1971 is repealed.

SEC. 3. It is the intent of the Legislature that the amendment made by Section 1 of this act be given effect with respect to any case to which it would apply in which a final judgment was not entered prior to January 1, 1984.

CHAPTER 844

An act to amend Section 1345 of, and to repeal Sections 1350 and 1350.1 of, the Health and Safety Code, relating to health.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 1345 of the Health and Safety Code is amended to read:

1345. As used in this chapter:

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts.

(b) "Basic health care services" means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Home health services.

(5) Preventive health services.

(6) Emergency health care services, including ambulance services and out-of-area coverage.

(c) "Enrollee" means a person who is enrolled in a plan and who is a recipient of services from the plan.

(d) "Evidence of coverage" means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or enrollee setting forth the coverage to which the subscriber or enrollee is entitled.

(e) "Group contract" means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) "Health care service plan" means any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees.

(g) "License" means, and "licensed" refers to, a license as a plan pursuant to Section 1353.

(h) "Provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(i) "Person" means any person, individual, firm, association, organization, partnership, business trust, foundation, labor organization, corporation, public agency, or political subdivision of the state.

(j) "Service area" means a geographical area designated by the plan within which a plan shall provide health care services.

(k) "Solicitation" means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(*l*) "Solicitor" means any person who engages in the acts defined in subdivision (k) of this section.

(m) "Solicitor firm" means any person, other than a plan, who through one or more solicitors engages in the acts defined in subdivision (k) of this section.

(n) "Specialized health care service plan contract" means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees.

(o) "Subscriber" means the person who is responsible for payment to a plan or whose employment or other status, except for family dependency, is the basis for eligibility for membership in the plan.

(p) Unless the context indicates otherwise, "plan" refers to health care service plans and specialized health care service plans.

(q) "Plan contract" means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts.

(r) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject to any specific requirement imposed by this chapter or by the commissioner.

SEC. 2. Section 1350 of the Health and Safety Code is repealed.

SEC. 3. Section 1350.1 of the Health and Safety Code is repealed.

CHAPTER 845

An act to amend Sections 19611.5, 19614.2, and 19617 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 19611.5 of the Business and Professions Code is amended to read:

19611.5. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association other than the California State Fair and Exposition or a district or county fair which conducts a thoroughbred race meeting may deduct from the total amount handled in daily double, quiniela, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as commissions and purses in the following percentage ratios: in 1978, 56 percent as commissions and 44 percent as purses; in 1979, 55 percent as commissions and 45 percent as purses; in 1980, 54 percent as commissions and 46 percent as purses; in 1981, 53 percent as commissions and 47 percent as purses; in 1982, 52 percent as commissions and 48 percent as purses; in 1983, 51 percent as commissions and 49 percent as purses; and in 1984 and thereafter, 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. Such sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all such deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins, in accordance with the qualifying standards specified in subdivision (c) of Section 19617.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

SEC. 2. Section 19614.2 of the Business and Professions Code is amended to read:

19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair, or an association conducting its meeting pursuant to Section 19549.1, may deduct from the total amount handled in daily double, quiniela, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the current year of the fair meet. Of the amount deducted, if any, 52 percent shall be distributed as additional purses and 48 percent shall be distributed as additional commissions.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional

deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of the deduction shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. The sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all the deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins, in accordance with the qualifying standards specified in subdivision (c) of Section 19617.

(d) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning or placing at the meeting. The premiums shall be distributed within 10 days of the close of the meeting on a prorated percentage basis of first and second place moneys earned to persons owning California-bred quarter horses at the time of their wins in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums.

The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(e) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owner's premiums for California-breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

SEC. 3. Section 19617 of the Business and Professions Code is amended to read:

19617. (a) Any association conducting a thoroughbred racing meeting shall at the end of the meeting deposit 0.34 percent of the

total amount handled in daily conventional and exotic parimutuel pools with the official registering agency of California-bred thoroughbred racehorses as designated by the board.

(b) The official registering agency shall distribute the funds pursuant to Section 19567 to the breeders of California-bred thoroughbred horses becoming entitled thereto at the thoroughbred racing meeting, except that a breeder of a thoroughbred horse winning or placing second or third in a race in this state shall be paid a sum equal to 10 percent of the respective share of the purse, exclusive of nomination, entry, or starting fees. A breeder of a California-bred thoroughbred winning a graded stakes race outside the State of California shall be paid a sum equal to 10 percent of the winner's share of the purse, with a maximum award of seven thousand five hundred dollars ($7,500) for any one race.

(c) Following the close of each meeting the official registering agency shall pay an owners' premium award of up to 5 percent of the winner's share of the purse, exclusive of nomination, entry, or starting fees, to the owner of a California-bred thoroughbred horse winning a race other than a claiming race at a racing meeting in this state, or a claiming race in the central and southern zones when the total purse exceeds the daily average purse in races, excluding stakes, distributed at that meeting during the prior year, or a claiming race in the northern zone when the total purse exceeds 150 percent of the daily average purse in races, excluding stakes, distributed at that meeting during the prior year. This payment shall be supplemented by the funds paid pursuant to subdivision (b) of Section 19611.5, except that the combined owner's premium award shall not exceed 20 percent for any one race.

(d) At the end of the fiscal year, the balance of the fund shall be distributed by the official registering agency as stallion awards. Stallion awards shall be made on a prorated percentage based on the share of the purse, exclusive of nomination, entry, or starting fees, to the owner of a sire of California-bred thoroughbred horses which finish first, second, or third in one or more stakes races at a racing meeting in this state or which win one or more races other than claiming races at a racing meeting in this state, or a claiming race in the central or southern zone when the total purse exceeds the daily average purse in races, excluding stakes, distributed at that meeting during the prior year, or a claiming race in the northern zone when the total purse exceeds 150 percent of the daily average purse in races, excluding stakes, distributed at that meeting during the prior year, and, in the case of California-bred thoroughbreds finishing first, second, or third in a graded stakes race outside the State of California, a prorated award shall be made to the owner of the sire, with a maximum award of seven thousand five hundred dollars ($7,500) for winning any one race, a maximum award of two thousand five hundred dollars ($2,500) for finishing second, and a maximum award of two thousand dollars ($2,000) for finishing third. The awards shall not be made to the owner of a stallion which has

been out of the state for breeding purposes during the calendar year.

(e) The maximum amount payable to the owner of a California stallion eligible for stallion awards for any one race shall be 3 percent of the total stallion awards fund for the year during which that race was run.

(f) The official registering agency shall make a deduction for expenses not to exceed 5 percent of the total awards fund, with the deductions having to be approved by the board, which shall report annually to the Governor and Legislature with respect to the distributions.

(g) In the event there are insufficient funds to make all of the distributions in this section, there shall be no additional assessments made against any associations to fund the deficiencies.

CHAPTER 846

An act to amend Section 75.65 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 75.65 of the Revenue and Taxation Code is amended to read:

75.65. (a) There is hereby appropriated from the General Fund to the Supplemental Roll Administrative Cost Fund (hereafter referred to as "the fund"), which is hereby created, the sum of ten million seventy-five thousand four hundred ninety dollars ($10,075,490).

(b) Money in the fund shall be allocated to counties to pay for the costs of administering this chapter in the 1983–84 fiscal year, where such costs are in excess of the amount of property tax revenue allocated for administrative costs pursuant to Section 75.60.

(c) The Controller shall allocate those funds upon certification by the board and the Department of Finance that the claim by the county for reimbursement of excess administrative cost is predicated on prudent administrative practice and does not incorporate expenses which are not essential to the administration of this chapter.

(d) Counties may submit claims for reimbursement for excess administrative costs of administering the provisions of this chapter to the board no later than January 15, 1984. The board shall review those claims and forward them with recommendations to the Department of Finance by March 1, 1984. If approved by the Department of Finance, the claim shall be submitted to the Controller for payment from the fund. The claim shall be paid no later than April 15, 1984.

(e) The Department of Finance shall develop guidelines for county claims pursuant to this article, which shall be developed in consultation with the board and with representatives of county assessors, county auditors and county tax collectors. The guidelines shall be issued by December 1, 1983.

SEC. 2. Notwithstanding subdivision (d) of Section 75.65 of the Revenue and Taxation Code, any claim for reimbursement which a county submitted to the State Board of Equalization between January 20, 1984, and March 1, 1984, inclusive, shall be paid by the Controller from the Supplemental Roll Administrative Cost Fund in the amount certified to the Controller by the Department of Finance.

CHAPTER 847

An act relating to tide and submerged lands conveyed in trust to the City of Long Beach.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. As used in this act, "tide and submerged lands" means those certain tide and submerged lands heretofore conveyed to the City of Long Beach upon certain trusts and conditions by Chapter 676 of the Statutes of 1911, Chapter 102 of the Statutes of 1925, and Chapter 158 of the Statutes of 1935.

SEC. 2. Without limiting in any way the scope or generality of the uses and purposes heretofore authorized and prescribed in subdivision (a) of Section 1 of each of the acts specified in Section 1 of this act, the City of Long Beach or its successors may grant easements and rights-of-way in perpetuity to the state or to the United States for the construction, maintenance, and operation of highways.

CHAPTER 848

An act to amend Sections 75033.5, 75090, 75095.5 of, and to add Section 75006 to, the Government Code, relating to the Judges' Retirement System.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 75006 is added to the Government Code, to read:

75006. Any allowance payable to a retired judge or to a surviving spouse or surviving child which has accrued and remained unpaid at the time of the judge's or the surviving spouse's or surviving child's death, shall be paid to:

(a) The survivor entitled to an allowance payable by this system.

(b) The estate of the retired judge or surviving spouse or surviving child, if there is no one entitled under subdivision (a).

SEC. 2. Section 75033.5 of the Government Code is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to attaining age 70, may retire, and upon his application therefor to the Judges' Retirement System after reaching the age which would have permitted him to retire for age and length of service under Section 75025 had he remained continuously in service as a judge up to such age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his discontinuance of his service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his retirement, not to exceed 20 years.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he living and receiving the benefits accorded by this section, commencing with his death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his death, if his death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon such filing said judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he has retired shall become vacant.

Said notice and election of retirement shall be sufficient if it states in substance that said judge elects to retire under the benefits of this section.

A judge who leaves his office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he receives by virtue of his service in such office.

SEC. 3. Section 75090 of the Government Code is amended to read:

75090. The benefits of this article are payable only to the surviving spouse of a judge who elects to come within this article. Any person who becomes a judge after the effective date of the amendment to this section made at the 1964 First Extraordinary Session may elect to come within this article within six months after becoming a judge or three months after notice is mailed to him by the Judges' Retirement System by registered mail. Election to come within this article is made by filing written notice thereof with the Judges' Retirement System. Any such election by a judge may thereafter be revoked by the judge and a reelection may be made at any time after such revocation.

SEC. 4. Section 75095.5 of the Government Code is amended to read:

75095.5. Any election of any judge who became a municipal court judge on May 23, 1980, and died on September 18, 1983, to come within the provisions of this article, which was filed with the Secretary of State on September 22, 1983, shall become effective on the date filed.

The surviving spouse of the person so electing who was previously eligible to come within this article and did not do so, shall pay all of the contributions he would have made pursuant to Section 75097 had he been covered by this article as soon as eligible therefor.

CHAPTER 849

An act to amend Section 35250 of, and to repeal Section 35251 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 35250 of the Vehicle Code is amended to read:

35250. No vehicle or load shall exceed a height of 14 feet measured from the surface upon which the vehicle stands, except that a double-deck bus may not exceed a height of 14 feet, 3 inches.

Any vehicle or load which exceeds a height of 13 feet 6 inches shall only be operated on those highways where deemed to be safe by the owner of the vehicle or the entity operating the bus.

SEC. 2. Section 35251 of the Vehicle Code is repealed.

CHAPTER 850

An act to amend Section 21002 of the Public Utilities Code, relating to aviation.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 21002 of the Public Utilities Code is amended to read:

21002. The purpose of this part is to further and protect the public interest in aeronautics and aeronautical progress by the following means:

(a) Encouraging the development of private flying and the general use of air transportation.

(b) Fostering and promoting safety in aeronautics.

(c) Effecting uniformity of the laws and regulations relating to aeronautics consistent with federal aeronautics laws and regulations.

(d) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property, assist in the development of a statewide system of airports, encourage the flow of private capital into aviation facilities, and cooperate with and assist political subdivisions and others engaged in aeronautics in the development and encouragement of aeronautics.

(e) Establishing only those regulations which are essential and clearly within the scope of the authority granted by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others.

(f) Providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state.

(g) Assuring that persons residing in the vicinity of airports are protected to the greatest possible extent against intrusions by unreasonable levels of aircraft noise.

(h) Fostering and promoting the development of a stable and efficient regional air carrier system to provide access for small and rural communities to the national air transportation system

consistent with federal policies favoring deregulation.

(i) Developing, in cooperation with the private sector, airport management, local jurisdictions, federal authorities, and the general public, informational programs to increase the understanding of current air transportation issues including, but not limited to, aviation safety, planning, airport noise, airport development and management, and the role of aviation in the economic development of the state, as an integral part of the state's transportation system.

(j) Sponsoring or cosponsoring, with representatives of the aerospace and aviation industry, aviation educational and informational seminars which meet the needs of pilots and other members of the industry for current information on aviation safety, planning, and airport development and management.

CHAPTER 851

An act to amend Sections 51237.5, 51249, 51253, 51291, 51294, and 51294.1 of the Government Code, and to amend Item 9100-101-001 of the Budget Act of 1984, and the provisions applicable thereto, relating to agricultural preserves, and making an appropriation therefor.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 51237.5 of the Government Code is amended to read:

51237.5. On or before the first day of September of each year, each city or county in which any agricultural preserve is located shall file with the Director of Conservation a map of each city or county and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year.

SEC. 2. Section 51249 of the Government Code is amended to read:

51249. Within 30 days after a form of contract is first used, the clerk of the board or council shall file with the Director of Conservation a sample copy of each form of contract and any land use restrictions applicable thereto.

SEC. 3. Section 51253 of the Government Code is amended to read:

51253. Any contract or agreement entered into pursuant to this chapter prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature may be amended to conform with the provisions of this act as amended at that session upon the mutual agreement of all parties. Approval of these amendments to a contract by the Director of Conservation shall not be required.

SEC. 4. Section 51291 of the Government Code is amended to read:

51291. (a) As used in this section, Section 51292, and Section 51295 "public agency" means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the preserve. The Director of Conservation shall forward to the Director of Food and Agriculture a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter the Director of Conservation and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Director of Food and Agriculture on any other matters related to agricultural operations. Failure of any public agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure by any person or any public agency other than a state agency shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established after submission of the location of those facilities to the city or county for review or approval.

SEC. 5. Section 51294 of the Government Code is amended to read:

51294. Section 51292 shall be enforceable only by mandamus proceedings by the local governing body administering the agricultural preserve or the Director of Conservation. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51292 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against the landowner.

SEC. 6. Section 51294.1 of the Government Code is amended to read:

51294.1. After 30 days have elapsed following its action, pursuant to subdivision (b) of Section 51291, advising the Director of Conservation and the local governing body of a county or city administering an agricultural preserve of its intention to consider the location of a public improvement within such agricultural preserve, a public agency proposing to acquire land within an agricultural preserve for water transmission facilities which will extend into more than one county, may file the proposed route of the facilities with each county or city administering an agricultural preserve into which the facilities will extend and request each county or city to approve or agree to the location of the facilities or the acquisition of the land therefor. Upon approval or agreement, the provisions of Section 51292 shall not apply to the location of the proposed water transmission facility or the acquisition of land therefor in any county or city which has approved or agreed to the location or acquisition.

SEC. 7. Item 9100-101-001 of the Budget Act of 1984, and the provisions applicable thereto, is amended to read:

9100-101-001—For local assistance, Tax Relief		847,786,000
Schedule:		
(a) 10-Senior Citizens' Property Tax Assistance	7,920,000	
(b) 20-Senior Citizens' Property Tax Deferral Program	9,300,000	
(c) 30-Senior Citizen Renters' Tax Assistance	32,130,000	
(d) 50-Homeowners' Property Tax Relief	334,500,000	
(e) 60-Subvention for Open Space	13,200,000	
(f) 70-Payments to Local Government for Sales and Property Tax Revenue Loss	3,638,000	
(g) 80-Renters' Tax Relief	447,000,000	
(h) 90-Substandard Housing	98,000	

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).

2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with

the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).

4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the Constitution, Controller. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16120 of the Government Code.

5. Schedule (e) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.

6. Schedule (f) is for reimbursement to local taxing authorities for revenue lost in accordance with the provisions of Sections 2229 and 2230 of the Revenue and Taxation Code, State Controller and, provided that the reimbursement for property tax revenue loss resulting from the restricted valuation of land under a wildlife habitat contract pursuant to Chapter 1165, Statutes of

1973, shall be based on a comparison between the value of the land computed pursuant to Section 423.7 of the Revenue and Taxation Code and the value of the land computed pursuant to Section 110.1 of the Revenue and Taxation Code.

7. Schedule (g) is for transfer by the Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.
8. Schedule (h) is for transfer by the Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

This amount is in lieu of any statutory requirements.

CHAPTER 852

An act to amend Section 22500 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 22500 of the Vehicle Code is amended to read:

22500. No person shall stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

(a) Within an intersection except adjacent to curbs as may be permitted by local ordinance.

(b) On a crosswalk, except that a bus engaged as a common carrier or a taxicab may stop in an unmarked crosswalk to load or

unload passengers when authorized by the legislative body of any city pursuant to ordinance.

(c) Between a safety zone and the adjacent right-hand curb or within the area between the zone and the curb as may be indicated by a sign or red paint on the curb, which sign or paint was erected or placed by local authorities pursuant to ordinance.

(d) Within 15 feet of the driveway entrance to any fire station. This paragraph does not apply to any vehicle owned or operated by a fire department and clearly marked as a fire department vehicle.

(e) In front of a public or private driveway, except that a bus engaged as a common carrier, schoolbus, or a taxicab may stop to load or unload passengers when authorized by local authorities pursuant to ordinance.

In unincorporated territory, where the entrance of a private road or driveway is not delineated by an opening in a curb or by other curb construction, so much of the surface of the ground as is paved, surfaced, or otherwise plainly marked by vehicle use as a private road or driveway entrance, shall constitute a driveway.

(f) On a sidewalk, except electric carts when authorized by local ordinance, as specified in Section 21114.5.

(g) Alongside or opposite any street or highway excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

(h) On the roadway side of any vehicle stopped, parked, or standing at the curb or edge of a highway.

(i) Except as provided under Section 22500.5, alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb erected or painted by local authorities pursuant to ordinance.

(j) In a tube or tunnel, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility.

(k) Upon a bridge, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility, and except that buses engaged as a common carrier in local transportation may stop to load or unload passengers upon a bridge where sidewalks are provided, when authorized by local authorities pursuant to ordinance, and except that local authorities pursuant to ordinance or the Department of Transportation pursuant to order, within their respective jurisdictions, may permit parking on bridges having sidewalks and shoulders of sufficient width to permit parking without interfering with the normal movement of traffic on the roadway. Local authorities may, by ordinance or resolution, permit parking on such bridges on state highways in their respective jurisdictions if the ordinance or resolution is first approved in writing by the Department of Transportation. Parking shall not be permitted unless there are signs in place, as may be necessary, to indicate the provisions of local ordinances or the order of the Department of Transportation.

(*l*) In front of that portion of a curb which has been cut down, lowered, or constructed to provide wheelchair accessibility to the sidewalk and which is designated for wheelchair access by either a sign or red paint on the curb pursuant to an ordinance of the local authority.

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

CHAPTER 853

An act to amend Sections 17262 and 24383 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 17262 of the Revenue and Taxation Code is amended to read:

17262. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle. The installation of emergency egress/safe area refuge systems shall be eligible for such deductions.

(b) The deduction authorized by this section shall be taken with respect to the taxable year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any taxable year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence. If, however, the cost of that repair or remodeling exceeds the limit set forth in subdivision (g), the remaining balance may be charged to capital account.

(d) If any building, facility or transportation vehicle is owned by

more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer, the taxpayer's family, or the general public, in the taxpayer's business or trade or the taxpayer's place of residence; provided, that such residence is located within the State of California.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any taxable year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may prescribe regulations as to the deductibility of repairs or remodeling with respect to residences in cooperation with the Department of Rehabilitation and the Office of the State Architect.

(i) This section shall apply to taxable years beginning after December 31, 1976.

(j) (1) The State Fire Marshal in cooperation with the Department of Rehabilitation and the Department of Aging shall adopt building standards and regulations for emergency egress/safe area refuge systems. The building standards and regulations shall include, but not be limited to, minimum requirements for safety, reliability, durability and usability. Emergency egress/safe area refuge systems that comply with the building standards and regulations adopted pursuant to this section shall be eligible for the deduction provided by this section.

(2) It is the intent of the Legislature that this section and the building standards adopted pursuant to this section do not supersede more restrictive building standards and regulations adopted by the state and local governments.

(k) "Emergency egress/safe area refuge system" shall include, but not be limited to, all of the following:

(1) A building floor divided into not less than two compartments by not less than one-hour fire-resistive construction. Each door opening in such construction shall be protected by a twenty-minute fire-resistive assembly as defined in regulations of the State Fire Marshal. Duct openings shall be protected by single-blade or

curtain-type fire dampers to restrict the passage of smoke or flame. The smaller of the compartmental areas shall be not less than one-fourth the floor area of the story. Each such compartment shall contain a stairway or elevator or other means of ready egress from the building.

(2) A fire alarm system defined in regulations by the State Fire Marshal.

(3) Use of existing exiting systems and warning devices when practical, including, but not limited to, stairways, elevators, and fire alarms.

(4) Accommodations for wheelchairs and all attached wheelchair equipment, as well as wheelchair occupants.

(5) Its own power source.

SEC. 2. Section 24383 of the Revenue and Taxation Code is amended to read:

24383. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of the building, facility or transportation vehicle, provided that the repair or remodeling meets one or more standards established pursuant to Section 4450 or 4451 of the Government Code. In the absence of such state standards, those standards established by the Secretary of the Treasury of the United States with the concurrence of the Architectural and Transportation Barriers Compliance Board shall be used. The installation of emergency egress/safe area refuge systems shall be eligible for such deductions.

(b) The deduction authorized by this section shall be taken with respect to the income year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any income year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence. If, however, the costs of that repair or remodeling exceed the limit set forth in subdivision (g), the remaining balance may be charged to capital account.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually

used, by the taxpayer or the general public, in the taxpayer's business or trade.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any income year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(i) This section shall apply to income years beginning after December 31, 1976.

(j) (1) The State Fire Marshal in cooperation with the Department of Rehabilitation and the Department of Aging shall adopt building standards and regulations for emergency egress/safe area refuge systems. The building standards and regulations shall include, but not be limited to, minimum requirements for safety, reliability, durability and usability. Emergency egress/safe area refuge systems that comply with the building standards and regulations adopted pursuant to this section shall be eligible for the deduction provided by this section.

(2) It is the intent of the Legislature that this section and the building standards adopted pursuant to this section do not supersede more restrictive building standards and regulations adopted by the state and local governments.

(k) "Emergency egress/safe area refuge system" shall include, but not be limited to, all of the following:

(1) A building floor divided into not less than two compartments by not less than one-hour fire-resistive construction. Each door opening in the construction shall be protected by a twenty-minute fire-resistive assembly as defined in regulations of the State Fire Marshal. Duct openings shall be protected by single-blade or curtain-type fire dampers to restrict the passage of smoke or flame. The smaller of the compartmental areas shall be not less than one-fourth the floor area of the story. Each such compartment shall contain a stairway or elevator or other means of ready egress from the building.

(2) A fire alarm system defined in regulations by the State Fire Marshal.

(3) Use of existing exiting systems and warning devices when practical, including, but not limited to, stairways, elevators, and fire alarms.

(4) Accommodations for wheelchairs and all attached wheelchair equipment, as well as wheelchair occupants.

(5) Its own power source.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1984.

CHAPTER 854

An act to add Section 458 to Chapter 2 of Title 13 of Part 1 to, and to amend Section 459 of, the Penal Code, relating to burglary.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984]

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

SECTION 1. Section 458 is added to Chapter 2 of Title 13 of Part 1 of the Penal Code, to read:

458. As used in this chapter, the term "cargo container" means a receptacle with all of the following characteristics:

(a) Of a permanent character and accordingly strong enough to be suitable for repeated use.

(b) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading.

(c) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another.

(d) So designed to be easy to fill and empty.

(e) Having a cubic displacement of 1,000 cubic feet or more.

SEC. 2. Section 459 of the Penal Code is amended to read:

459. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, railroad car, locked or sealed cargo container, whether or not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code when the doors of such vehicle are locked, aircraft as defined by the Harbors and Navigation Code, mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 2.5. Section 459 of the Penal Code is amended to read:

459. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, railroad car, locked or sealed cargo

container, whether or not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code, aircraft as defined by the Harbors and Navigation Code, mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

The trier of fact may, but shall not be required to, infer that a person, other than a public officer or employee acting within the course and scope of his or her employment in the performance of a duty imposed by law, who enters a vehicle, dwelling house or other structure described in this section without the consent of the owner or owner's agent or the person in lawful possession thereof, does so with the intent to commit grand or petit larceny or another felony.

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

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 459 of the Penal Code proposed by both this bill and SB 2246. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 459 of the Penal Code, and (3) this bill is enacted after SB 2246, in which case Section 2 of this bill shall not become operative.

CHAPTER 855

An act to amend Section 801 of, and to add Sections 801.5 and 1051.5 to, the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 801 of the Unemployment Insurance Code is amended to read:

801. (a) As used in this section, "nonprofit organization" means any corporation, community chest, fund, or foundation for which services are performed that constitute employment by compulsory

coverage under Section 608.

(b) A nonprofit organization may, in lieu of the contributions required of employers, elect to finance its liability for unemployment compensation benefits, extended duration benefits, and federal-state extended benefits coverage under this division by any method of financing coverage that is permitted under Section 803.

(c) Any election under Section 803 of a method for financing coverage under this section shall, upon the written approval of the director, take effect with respect to services performed from and after the first day of the calendar quarter in which the election is filed with the director, and shall continue in effect for not less than five full calendar years. Thereafter the election under Section 803 may be terminated as of January 1 of any calendar year only if the nonprofit organization, on or before the 31st day of January of that year, has filed with the director a written application for termination. The director may for good cause waive the requirement that a written application for termination shall be filed on or before the 31st day of January. In no event shall the director approve any method of financing coverage by an election under Section 803 that would establish any different method of financing coverage for any calendar quarter where an election for coverage made by a nonprofit organization under Section 702.1 elects a method of financing coverage permitted under Section 803.

(d) To the extent permitted by federal law, a nonprofit organization which elects reimbursement financing pursuant to this section and which has a favorable reserve account on the date the election takes effect shall not be liable for the reimbursement of benefits pursuant to the election to the extent that the cost of benefits does not exceed the amount in the reserve account. Notwithstanding Section 1029, the reserve account shall not be canceled and the cost of benefits otherwise chargeable to the organization shall be charged to the reserve account until it is exhausted.

(e) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this section.

SEC. 2. Section 801.5 is added to the Unemployment Insurance Code, to read:

801.5. To the extent permitted by federal law, a nonprofit organization which before the operative date of this section elected reimbursement financing pursuant to Section 801 and which has a favorable reserve account on the operative date of this section shall not be liable for the reimbursement of benefits pursuant to the election to the extent that the cost of benefits does not exceed the amount in the reserve account. Notwithstanding Section 1029, the reserve account shall not be canceled and the cost of benefits otherwise chargeable to the organization shall be charged to the reserve account until it is exhausted.

SEC. 3. Section 1051.5 is added to the Unemployment Insurance

Code, to read:

1051.5. To the extent permitted by federal law, Sections 1051, 1052, and 1053 are applicable to acquisitions by a nonprofit organization which has elected reimbursement financing pursuant to Section 801 and the director shall transfer the reserve account of the predecessor employer to the successor nonprofit organization. Notwithstanding Section 1029, the reserve account shall not be canceled and the cost of benefits otherwise chargeable to the organization shall be charged to the reserve account until it is exhausted.

SEC. 4. Upon enactment of this act, the Director of Employment Development shall request a written waiver from the Secretary of Labor to implement the provisions of Sections 801, 801.5, and 1051.5.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to remove an unfair tax burden on nonprofit employers at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 856

An act to amend Sections 29121 and 29145.1 of, to add Section 29122 to, and to repeal and add Section 29145.5 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 29121 of the Food and Agricultural Code is amended to read:

29121. It is unlawful for any person that has relocated any colony of bees within the state from any apiary in which disease has been found within the preceding 60 days to fail to send a notice within five days of such relocation to the commissioner of the county in which the movement originated, and a second notice to the commissioner of the county of destination if the bees are moved from one county to another. The notice shall include a statement of all of the following:

(a) The number of colonies of bees moved.

(b) The number of colonies of bees left at the point of origin.

(c) The location of the point of origin and the point of destination.

(d) The name and address of the apiary operator.

SEC. 2. Section 29122 is added to the Food and Agricultural Code, to read:

29122. (a) Each beekeeper who desires notice of any pesticide application shall report to the commissioner of the county in which his or her apiaries are located, on a form approved by the commissioner, of each location of apiaries for which notification is sought. Each report shall be mailed within the 72-hour period before locating or relocating each apiary. The beekeeper shall report to the commissioner before removing, or within 72 hours after removing, all apiaries from a location for which notice of pesticide application has been requested.

(b) The beekeeper shall not be entitled to notification until receipt and processing of the written report is made by the commissioner. The report shall be a condition to the recovery of damages for any injury to the apiary by reason of any pest control operation.

(c) Notice to pesticide users shall not be required until the written report by the beekeeper has been received and processed by the commissioner.

(d) Processing by the commissioner under this section shall be done as expeditiously as reasonable but shall not exceed 72 hours.

SEC. 3. Section 29145.1 of the Food and Agricultural Code is amended to read:

29145.1. The director shall adopt regulations necessary to minimize the hazard to bees, while still providing for the reasonable and necessary application of pesticides toxic to bees to blossoming plants. The regulations may be limited to specific blossoming plants.

(a) Regulations adopted pursuant to this section may be applicable to either the entire state or specified areas of the state. Regulations that are applicable to only specified areas of the state shall include provisions for the mandatory notice of movement of apiaries, including any relocation thereof within the area to which the regulations are applicable.

(b) If regulations are adopted pursuant to subdivision (a), the director may also adopt regulations providing for timely notification of apiary owners of proposed pesticide applications.

(c) If regulations are adopted pursuant to subdivisions (a) and (b), the director may also adopt regulations providing limitations on the time and method of application of pesticides and the pesticides used.

(d) If regulations are adopted pursuant to subdivision (c), the director may adopt other regulations that he or she deems necessary.

SEC. 4. Section 29145.5 of the Food and Agricultural Code is repealed.

SEC. 5. Section 29145.5 is added to the Food and Agricultural Code, to read:

29145.5. Failure of a beekeeper to remove hives from a specific location, except during specific periods of time, as provided in subdivisions (c) and (d) after notification, shall not prevent the application of pesticides to blossoming plants pursuant to the pesticide's labeling and applicable laws and regulations. When the

pesticide applicator has complied with the notification pursuant to subdivision (b), of Section 29145.1 the applicator shall not be liable for injury to bees that enter the area treated during or after the application.

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

CHAPTER 857

An act relating to vehicles.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. (a) The Department of Transportation and the Department of the California Highway Patrol shall jointly, and in cooperation with the United States Department of Transportation, conduct a study of the 55-mile-per-hour national maximum speed limit. The study shall do all of the following:

(1) Describe the objectives of the Congress in enacting the national maximum speed limit and the Congress' sanctions for noncompliance.

(2) Compare and contrast policies of California and other states in enforcing and complying with the national maximum speed limit.

(3) Evaluate the effectiveness of California's current policies for enforcing and complying with the national maximum speed limit.

(4) Identify and evaluate alternatives to California's current policies.

(5) Comment on the economic costs and benefits of complying with the national maximum speed limit using the "five-dollar-fine" approach.

(b) The study shall be completed by January 1, 1986.

CHAPTER 858

An act to amend Sections 13365 and 40509 of, and to add Section 40509.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 13365 of the Vehicle Code is amended to read:

13365. (a) Upon receipt of notification of a violation of subdivision (a) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, the department shall take the following action:

(1) If the notice is given pursuant to subdivision (a) of Section 40509, if the driving record of the person who is the subject of the notice contains one or more prior notifications of a violation issued pursuant to Section 40509 or 40509.5, and if the person's driving privilege is not currently suspended under this section, the department shall suspend the driving privilege of the person.

(2) If the notice is given pursuant to subdivision (a) of Section 40509.5 with respect to any underlying violation, other than a violation specified in paragraph (2) of subdivision (c) of Section 40509.5, and if the driving privilege of the person who is the subject of the notice is not currently suspended under this section, the department shall suspend the driving privilege of the person.

(3) If the notice is given pursuant to subdivision (a) of Section 40509.5 with respect to an underlying violation specified in paragraph (2) of subdivision (c) of Section 40509.5, if the driving record of the person who is the subject of the notice contains one or more prior notifications of a violation pursuant to Section 40509 or 40509.5, and if the person's driving privilege is not currently suspended under this section, the department shall suspend the driving privilege of the person.

(b) A suspension under this section shall not be effective before a date 60 days after the date of receipt, by the department, of the notice given specified in subdivision (a), and the notice of suspension shall not be mailed by the department before a date 30 days after receipt of the notice given specified in subdivision (a).

The suspension shall continue until the suspended person's driver record does not contain any notification of a violation of subdivision (a) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003.

SEC. 2. Section 40509 of the Vehicle Code is amended to read:

40509. (a) Whenever any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or

before the person authorized to receive a deposit of bail or violated an order to appear in court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court, the magistrate or clerk of the court may give notice of the fact to the department for any violation which is required to be reported pursuant to Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall sign and file with the department a certificate showing that the fine has been paid.

(c) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (b) of Section 40509.5.

SEC. 3. Section 40509.5 is added to the Vehicle Code to read:

40509.5. (a) Whenever, with respect to an offense described in subdivision (c), any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) The court shall mail a courtesy warning notice to the defendant by first-class mail at the address shown on the notice to appear, at least 10 days before sending a notice to the department under this section.

(c) If the court notifies the department of a failure to appear pursuant to this section, no arrest warrant shall be issued for an alleged violation of subdivision (a) Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, unless one of the following criteria are met:

(1) The alleged underlying offense is a misdemeanor or felony.

(2) The alleged underlying offense is a violation of any provision of Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), or Division 15 (commencing with Section 35000).

(3) The driver record does not show that the defendant has a valid California driver's license.

(4) The driver record shows an unresolved charge that the defendant is in violation of his or her written promise to appear for one or more other alleged violations of the law.

(d) This section is applicable to courts which have elected to provide notice pursuant to subdivision (b). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

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

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 6. Sections 1, 2, and 3 of this act shall become operative on July 1, 1985.

CHAPTER 859

An act to repeal Section 2980.5 of the Civil Code, relating to contracts.

[Approved by Governor September 4, 1985. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 2980.5 of the Civil Code is repealed.

CHAPTER 860

An act to amend Section 19619 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season.

(c) Responsibility for the California Standardbred Sires Stakes Program is with the board. Administration of the California Standardbred Sires Stakes Program is the responsibility of the California Standardbred Sires Stakes Committee. The California Standardbred Sires Stakes Committee shall consist of six members and two alternates, with three members and one alternate selected from and by each of the following organizations:

(1) The harness horsemen's organization contracting with the associations with respect to the conduct of racing meetings.

(2) The organization responsible for the registration of California-bred harness horses.

Administrative expenses of the committee in any given year shall not exceed 4 percent of that year's income to the California Standardbred Sires Stakes Program, and all expenses shall be approved by the board.

(d) The board may do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue, and adopt rules and regulations providing for all of the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining, and entry fees for horses and races.

(3) Registration and certification of California stallions, mares bred to those stallions, and foals produced thereby.

(4) Any other matter which is considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining, and entry fees provided for in this section shall be deposited with the California Standardbred Sires Stakes Committee. The committee shall distribute the funds deposited with it in accordance with this section for the purposes of the California Standardbred Sires Stakes Program in the manner approved by the board.

(f) Pursuant to Section 19491.7, the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses

shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
January 1 to June 30, 1981	75%	25%
July 1, 1981, and thereafter	100%	0%

(g) An amount equal to 10 percent of the total purses raced for in the California sires stakes races, excluding amounts derived from nomination, sustaining, and entry fees, shall be awarded to the standardbred breeders of the horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California sires stakes races, excluding amounts derived from nomination, sustaining, and entry fees, shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding subdivision (b), the board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two year olds and are wholly owned by a California resident on the day of the race.

(j) The balance of the remaining funds, including nominating, sustaining, and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the board in accordance with the following criteria:

(1) California standardbred sires stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at each licensed harness meeting in California, except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

(2) Two- and three-year-old races shall be divided into colt and filly divisions.

(3) Base purses for each set of races conducted during any given year at any race meeting shall be determined by the California Standardbred Sires Stakes Committee but, with the exception of

championship races which may be scheduled and excluding purses derived from nomination, sustaining, and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that, if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse and, if elimination heats are raced, the base purse shall be determined by the California Standardbred Sires Stakes Committee designated pursuant to subdivision (c). As used in this section, a set of races means one final race for each eligible age, sex, and gait, as scheduled by the California Standardbred Sires Stakes Committee.

(4) In each division of each race in the California standardbred sires stake races, the purse shall be divided in the following manner:

(i) Five or more starters	
1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%
(ii) Four starters	
1st	55%
2nd	25%
3rd	12%
4th	8%
(iii) Three starters	
1st	55%
2nd	30%
3rd	15%
(iv) Two starters	
1st	65%
2nd	35%
(v) One starter	
1st	100%

CHAPTER 861

An act to add Section 20015 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 20015 is added to the Vehicle Code, to read:

20015. (a) No traffic or police officer shall include in any counter report of a property-damage accident, as defined in this section, any

determination by the peace officer of fault of the reporting person, including, but not limited to, inattentiveness. This section does not apply to a determination which is the result of an examination of the physical evidence of the accident at the site of the accident by the traffic or police officer or the result of an express, knowing admission of the reporting person if the basis for the determination is also included in the report.

(b) As used in this section, "counter report of a property-damage accident" means any report of an accident involving one or more vehicles which meets the following criteria:

(1) The accident reported caused damage to property, but did not cause personal injury to or the death of any person.

(2) The report is prepared at an office of the California Highway Patrol or local law enforcement agency.

(3) The report is written or recorded by, or with the assistance of, a peace officer.

CHAPTER 862

An act to add Section 14672.93 to the Government Code, relating to state equipment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. The Legislature hereby declares that the education of disadvantaged and minority youth by private, nonprofit organizations with the use of state-owned equipment for the purpose of developing technical skills and finding entry-level jobs in video communications, which includes, but is not limited to, movies and broadcasting, is for a statewide public purpose. In order to continue this important activity, the Legislature hereby enacts this act.

SEC. 2. Section 14672.93 is added to the Government Code, to read:

14672.93. Notwithstanding Section 14670, whenever a private, nonprofit organization has acquired state-owned equipment for the purpose of helping disadvantaged and minority youth learn the technical skills they need in order to gain employment in the growing video communications field, during a period when the private, nonprofit organization, is being funded, either partially or entirely, with state moneys, the private, nonprofit organization, once it no longer is funded with state moneys, may lease the state equipment, with the approval of the Department of General Services and the consent of the state agency concerned, for a term not to exceed 25 years and for consideration of one dollar ($1) per

month and an agreement to continue assisting disadvantaged and minority youth in the above-mentioned endeavors. The lease shall contain an express provision that should the equipment not be used pursuant to the above agreement, the lease shall thereby be terminated.

Any lease agreement made pursuant to this section shall be subject to review by the Department of General Services every five years, at which time the department may terminate the lease, if it determines that the provisions of this section are not being complied with.

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

In order to allow private, nonprofit organizations to continue training disadvantaged and minority youth in the technical skills of video communication, it is necessary that this act go into immediate effect.

CHAPTER 863

An act to amend Section 45258 of the Education Code, relating to school employees.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 45258 of the Education Code is amended to read:

45258. In addition to the exemptions authorized in Section 45256, there shall be exempt from the classified service positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 working days, or a total of 720 hours, in a fiscal year, provided that:

(1) The authorized duties are not those normally assigned to a class of positions in the classified service.

(2) The authorized duties are approved by the personnel commission in advance of employment.

(3) A regular classified employee of the school district shall not receive a concurrent appointment to such a position.

CHAPTER 864

An act to amend Sections 66499.34 and 66499.36 of the Government Code, relating to subdivisions.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 66499.34 of the Government Code is amended to read:

66499.34. No local agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this division or of the provisions of local ordinances enacted pursuant to this division if it finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or such approval shall apply whether the applicant therefor was the owner of record at the time of such violation or whether the applicant therefor is either the current owner of record or a vendee of the current owner of record pursuant to a contract of sale of the real property with, or without, actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in such real property.

If a city or a county issues a permit or grants approval for the development of any such real property, it may impose only those conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest in such real property, and which has been established at such time by this division or local ordinance enacted pursuant thereto, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who, by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant thereto, and such person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of the division or local ordinances enacted pursuant thereto, then the local agency may impose such conditions as would be applicable to a current division of the property, and except that if a conditional certificate of compliance has been filed for record under the provisions of subdivision (b) of Section 66499.35, only such conditions stipulated in that certificate shall be applicable.

The issuance of a permit or grant of approval for development of real property, or with respect to improvements that have been completed prior to the time a permit or grant of approval for development was required by local ordinances in effect at the time of the improvement, or with respect to improvements that have

been completed in reliance upon a permit or grant of approval for development, shall constitute "real property which has been approved for development," for the purposes of subdivision (c) of Section 66499.35, and upon request by the person owning the real property or a vendee of such person pursuant to a contract of sale, the local agency shall issue a certificate of compliance for the affected real property.

SEC. 2. Section 66499.36 of the Government Code is amended to read:

66499.36. Whenever a local agency has knowledge that real property has been divided in violation of the provisions of this division or of local ordinances enacted pursuant to this division, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation, describing the real property in detail, naming the owners thereof, and stating that an opportunity will be given to the owner to present evidence. The notice shall specify a time, date, and place for a meeting at which the owner may present evidence to the legislative body or advisory agency why the notice should not be recorded. The notice shall also contain a description of the violations and an explanation as to why the subject parcel is not lawful under subdivision (a) or (b) of Section 66412.6.

The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the local agency of his or her objection to recording the notice of violation, the legislative body or advisory agency shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the local agency shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the legislative body or advisory agency determines that the property has in fact been illegally divided, the legislative body or advisory agency shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property. The county recorder shall index the names of the fee owners in the general index.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 865

An act to add Article 3.1 (commencing with Section 2770) to Chapter 6 of Division 2 of the Business and Professions Code, relating to registered nursing, and making an appropriation therefor.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Article 3.1 (commencing with Section 2770) is added to Chapter 6 of Division 2 of the Business and Professions Code, to read:

Article 3.1. Diversion Program

2770. It is the intent of the Legislature that the Board of Registered Nursing seek ways and means to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness so that registered nurses so afflicted may be rehabilitated and returned to the practice of nursing in a manner which will not endanger the public health and safety. It is also the intent of the Legislature that the Board of Registered Nursing shall implement this legislation by establishing a diversion program as a voluntary alternative to traditional disciplinary actions.

2770.1. As used in this article:

(a) "Board" means the Board of Registered Nursing.

(b) "Committee" means a diversion evaluation committee created by this article.

2770.2. One or more diversion evaluation committees is hereby created in the state to be established by the board. Each committee shall be composed of five persons appointed by the board. No board member shall serve on any committee.

Each committee shall have the following composition:

(a) Three registered nurses, holding active California licenses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing.

(b) One physician, holding an active California license, who specializes in the diagnosis and treatment of addictive diseases or mental illness.

(c) One public member who is knowledgeable in the field of chemical dependency.

It shall require a majority vote of the board to appoint a person to a committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

2770.3. Each member of a committee shall receive per diem and

expenses as provided in Section 103.

2770.4. Three members of a committee shall constitute a quorum for the transaction of business at any meeting. Any action requires a majority vote of the committee.

2770.5. Each committee shall elect from its membership a chairperson and a vice chairperson.

2770.6. The board shall administer the provisions of this article.

2770.7. The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the diversion program. Only those registered nurses who have voluntarily requested diversion and supervision by a committee shall participate in the program.

2770.8. Each committee shall have the following duties and responsibilities:

(a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board and to consider the recommendations of its licensed physician or registered nurse consultant in the admission of the registered nurse to the diversion program.

(b) To review and designate those treatment facilities and services to which registered nurses in a diversion program may be referred.

(c) To receive and review information concerning a registered nurse participating in the program.

(d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.

(e) To call meetings as necessary to consider the requests of registered nurses to participate in a diversion program, and to consider reports regarding registered nurses participating in a program.

(f) To prepare reports to be submitted to the board.

(g) To set forth in writing for each registered nurse participating in a program a rehabilitation program established for that registered nurse with the requirements for supervision and surveillance.

2770.9. The committee shall inform each registered nurse who requests participation in a program of the procedures followed in the program, of the rights and responsibilities of the registered nurse in the program, and of the possible results of noncompliance with the program.

2770.10. Notwithstanding the provisions of Chapter 1 (commencing with Section 11120) of Part 1 of Division 2 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider reports pertaining to any registered nurse requesting or participating in a diversion program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a licentiate.

2770.11. Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation

program designed by a committee. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for failure to comply with the provisions of a rehabilitation program shall be reported to the board.

2770.12. (a) After a committee in its discretion has determined that a registered nurse has been rehabilitated and the diversion program is completed, the committee shall purge and destroy all records pertaining to the registered nurse's participation in a diversion program.

(b) All board and committee records and records of a proceeding pertaining to the rehabilitation of a registered nurse in a program shall be kept confidential and are not subject to discovery or subpoena.

2770.13. The board shall provide for the representation of any person making reports to a committee or the board under this article in any action for defamation directly resulting from reports or information given to a committee or the board regarding a registered nurse's participation in a diversion program.

2770.14. The board shall require biannual reports from each committee which include, but are not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance and a cost analysis of the program.

SEC. 2. For the fiscal year 1984–85, for the period from January 1, 1985, to June 30, 1985, the sum of ninety-five thousand dollars ($95,000) is hereby appropriated from the Board of Registered Nursing Fund to the Board of Registered Nursing for purposes of implementing this act.

CHAPTER 866

An act to amend Sections 50050 and 50052 of, and to add Sections 50052.5, 50056, 66468.2, and 66494.1 to, the Government Code, and to amend Sections 3651, 3693.1, 3698.5, 4112, 4674, and 4837.5 of the Revenue and Taxation Code, relating to local government.

[Approved by Governor September 4, 1984 Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 50050 of the Government Code is amended to read:

50050. For purposes of this article "local agency" includes all districts. Except as otherwise provided by law, money not the property of a local agency which remains unclaimed in its treasury

or in the official custody of its officers for three years is the property of the local agency after notice if not claimed or if no verified complaint is filed and served. At any time after the expiration of the three-year period the treasurer of the local agency may cause a notice to be published once a week for two successive weeks in a newspaper of general circulation published in the local agency.

SEC. 2. Section 50052 of the Government Code is amended to read:

50052. Upon or prior to publication, a party of interest may file a claim with the treasurer which must include the claimant's name, address, amount of claim, the grounds on which the claim is founded, and any other information that may be required by the treasurer. The claim shall be filed before the date the unclaimed money becomes the property of the local agency as provided under Section 50051 and the treasurer shall accept or reject that claim. If the claim is rejected by the treasurer, the party who submitted the claim may file a verified complaint seeking to recover all, or a designated part, of the money in a court of competent jurisdiction within the county in which the notice is published, and serves a copy of the complaint and the summons issued thereon upon the treasurer. The copy of the complaint and summons shall be served within 30 days of receiving notice that the claim was rejected. The treasurer shall withhold the release of the portion of unclaimed money for which a court action has been filed as provided in this section until a decision is rendered by the court.

SEC. 3. Section 50052.5 is added to the Government Code, to read:

50052.5. Notwithstanding the provisions of Section 50052, the treasurer may release to the depositor of the unclaimed money, their heir, beneficiary, or duly appointed representative, unclaimed money if claimed prior to the date the money becomes the property of the local agency upon submitting proof satisfactory to the treasurer.

SEC. 4. Section 50056 is added to the Government Code, to read:

50056. The responsibilities of the treasurer as provided under this article may be delegated by the treasurer to the agency, district, or department that maintains the supporting records of the unclaimed money based on the initial receipt or deposit of that money or both.

SEC. 4.1. Section 66468.2 is added to the Government Code, to read:

66468.2. The board of supervisors may, by resolution, authorize any county officer to perform the duties required of the clerk of the board of supervisors under this article.

SEC. 4.2. Section 66494.1 is added to the Government Code, to read:

66494.1. The board of supervisors may, by resolution, authorize any county officer to perform the duties required of the clerk of the board of supervisors under this article.

SEC. 5. Section 3651 of the Revenue and Taxation Code is

amended to read:

3651. After the recording of the deed to the state, the state has exclusive power through the Controller to rent tax-deeded property and to receive all proceeds arising in any manner from the property.

SEC. 6. Section 3693.1 of the Revenue and Taxation Code is amended to read:

3693.1. Notwithstanding Section 3693, if the high bid is in excess of five thousand dollars ($5,000), the tax collector may make the sale a cash or credit transaction. In the event the successful purchaser elects to treat the sale as a credit transaction, five thousand dollars ($5,000) or 10 percent of the purchase price, whichever is greater, shall be deposited with the tax collector and the balance of the purchase price shall be paid in cash not more than 90 days from the date of the auction as a condition precedent to the transfer of title to such successful purchaser. Failure on the part of the successful bidder to consummate the sale within the period allowed shall result in the forfeiture of the deposit and all rights he may have with respect to such property. Any forfeiture of deposit shall be distributed to the county general fund and shall not apply to outstanding delinquent taxes. This section may be held applicable in any tax auction sale in the county at the discretion of the tax collector.

SEC. 6.5. Section 3698.5 of the Revenue and Taxation Code is amended to read:

3698.5. (a) The minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than 25 percent of the fair market value.

(b) For the purposes of this section, fair market value means the amount as defined in Section 110 as determined pursuant to an appraisal of such property by the county assessor within one year immediately preceding the date of the public auction. The fair market value of property as determined by the assessor pursuant to appraisal shall be conclusively presumed in favor of any purchaser or encumbrancer for value of such property.

(c) This section shall not apply to tax-deeded property which qualifies for sale in accordance with the provisions of subdivisions (a) and (b) of Section 3692.

SEC. 6.7. Section 4112 of the Revenue and Taxation Code is amended to read:

4112. (a) When tax-deeded property is redeemed, the tax collector shall collect the following, in addition to the amount required to redeem:

(1) A fee of thirty-five dollars ($35) which shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675; and

(2) A fee of six dollars ($6) which shall be distributed to the county recorder for recordation of the release of equity required by

subdivision (b).

(3) Any rents due the Controller from the tax-deeded property together with any proceeds arising in any manner from that property.

(b) When tax-deeded property is redeemed, the deed to the state becomes null and any interest acquired by virtue of the sale to the state ceases.

When a certificate of redemption is issued as a result of the redemption of tax-deeded property, the tax collector, for and on behalf of the state, shall execute and record with the county recorder of the county in which such property is located a release of equity or quitclaim of the property redeemed, in the form prescribed by the State Controller. The release shall be acknowledged by the county clerk, without charge.

SEC. 7. Section 4674 of the Revenue and Taxation Code is amended to read:

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4673, and 4673.1 shall be retained in such fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of one year following the execution of the tax deed to the purchaser, any excess proceeds not claimed under Section 4675 shall be distributed as provided in paragraph (2) of subdivision (a) of Section 4673.1, except prior to the distribution, the tax collector may deduct those costs of maintaining the redemption and tax-deeded property files which have not been recovered under any other provision of law.

SEC. 8. Section 4837.5 of the Revenue and Taxation Code is amended to read:

4837.5. (a) Notwithstanding any other provision of law, taxes due on escape assessments for prior fiscal years, where the error causing the escape assessment was not that of the assessee, or taxes due because of the correction of any assessor's error for prior fiscal years under this article, where that error was made without fault on the part of the assessee, may be paid over a four-year period at the option of the assessee if: (1) the additional tax is over one hundred dollars ($100), and (2) a written request for installment payment is filed by the assessee with the tax collector prior to the time the second installment of taxes on the secured roll becomes delinquent, or by the last day of the month following the month in which the tax bill is mailed, whichever is later. The tax collector shall include with the property tax bill a notice of the payment provisions of this section.

If payment by installments is requested, 20 percent of the tax shall be paid no later than the deadline for filing the written request. The current taxes and prior year taxes with penalties and costs thereon shall be paid with or prior to the initial installment payment. In each succeeding fiscal year, the assessee shall pay, before the delinquency date of the second installment of current taxes on the secured roll,

all current year taxes, and a sum at least sufficient to reduce the outstanding balance of the tax by 20 percent of the original amount.

No penalties shall be charged so long as installment payments are made timely. If any installment is not paid timely, or if the property on the secured roll becomes sold to state, or if the property changes ownership, or if taxes for the property on the unsecured roll are not paid before becoming delinquent, the balance of the tax remaining to be paid shall immediately become due and payable, no further installment payments for that escape assessment or correction shall be authorized, and the remaining balance of the tax shall become subject to all of the provisions of this division applicable to delinquent taxes.

The tax collector shall maintain records listing the current status of all the installment accounts authorized under this section and the fact of each installment account shall be entered on the current roll.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 867

An act to amend Sections 361, 362, and 727 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases wherein a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over such dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or

guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

The court shall state the facts on which the decision to remove the child is based. The court also shall inform the parent or parents of the provisions of Section 366.25 and Section 232 of the Civil Code and shall specify that their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or

guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to such placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services, unless such participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

SEC. 2. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases wherein a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no

reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

The court shall state the facts on which the decision to remove the child is based. The court also shall make a determination as to whether reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 and Section 232 of the Civil Code and shall specify that their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer shall take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to such placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services, unless such participation

is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period.

SEC. 3. Section 362 of the Welfare and Institutions Code is amended to read:

362. (a) When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court and consistent with subdivision (e) of Section 361.

When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(4) A home or facility in accordance with the federal Indian Child Welfare Act.

(b) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interests of the minor will be served by granting visitation rights with the minor to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.

(c) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, if all of the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately.

The denial of the license constitutes a withdrawal of the certification.

(d) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians may be required, and may be ordered, to participate in child welfare services or services provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency, designated by the court.

(e) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (c). Such an order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent, guardian, or foster parent is required to participate shall be designed to eliminate those conditions that led to the court's finding that the minor is a person described by Section 300.

SEC. 4. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such a minor, including medical treatment, subject to further order of the court.

The court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license

application with the State Department of Social Services, provided that all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b).

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Section 2 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and AB 3039. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 361, and (3) this bill is enacted after AB 3039, in which case Section 1 of this bill shall not become operative.

CHAPTER 868

An act to amend Section 10133.1 of the Business and Professions Code, to amend Section 1101.1 of the Corporations Code, to amend Sections 5119, 5205.5, 5206, 5403, 5650, 5654, 5713, 5750, 5759, 5801, 6150, 6152, 6521, 6650, 6950, 7451, 7500, 7700, 8034, 8150, 8156, 8225, 8227, 8229, and 8250 of, to add Sections 5117.5, 5501.5, 6053, 6528, 7457, and 7458 to, to repeal Section 7508 of, and to repeal and add Section 7507 of, the Financial Code, and to amend Section 53630 of the Government Code, relating to savings and loan associations.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. Subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with Section 10240) and Section 1695.13 of the Civil Code do not apply to any of the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by the agency.

(c) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not

charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), provided, the fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker, a consumer finance lender, or a commercial finance lender when acting under the authority of that license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property, if:

(1) The person makes collections on 10 or less of such loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year; or

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent's trust account.

(j) Any person authorized in writing by a savings institution to act as an agent of that institution, as authorized by Section 6520 of the Financial Code or comparable authority of the Federal Home Loan Bank Board by its regulations, when acting under the authority of such written authorization.

SEC. 2. Section 1101.1 of the Corporations Code is amended to read:

1101.1. The last two sentences of Section 1101 do not apply to any transaction if the Commissioner of Corporations, the Superintendent of Banks, the Savings and Loan Commissioner, the Insurance Commissioner or the Public Utilities Commission has approved the terms and conditions of the transaction and the fairness of such terms and conditions pursuant to Section 25142 or Section 696.5, 5750, or 5802 of the Financial Code or Section 838.5 of the Insurance Code.

SEC. 2.5. Section 5117.5 is added to the Financial Code, to read:

5117.5. "Savings institution" means a financial institution as defined in Section 5102.

SEC. 2.7. Section 5119 of the Financial Code is amended to read:

5119. "Service corporation" means a corporation, other than a wholly owned subsidiary referred to in Section 7300, in which at least 80 percent of the shares of stock having voting power are owned by one or more associations or federal associations. As used in this section "voting power" shall have the same meaning as defined in Section 194.5 of the Corporations Code.

SEC. 3. Section 5205.5, as proposed to be added to the Financial Code by Assembly Bill 2435 of the 1983–84 Regular Session, is amended to read:

5205.5. (a) All references in this division to financial statements, balance sheets, income statements, and statements of changes in

financial position of an association and all references to assets, liabilities, earnings, retained earnings, shareholders' equity, and similar accounting items of an association, mean financial statements or items prepared or determined in conformity with generally accepted accounting principles then applicable which fairly present in conformity with generally accepted accounting principles the matters that they purport to present, subject to any specific accounting treatment required by any provision of this division, or by any regulation or order issued under this division.

(b) The commissioner may, by regulation or order, require that any financial statement or accounting item of an association be prepared or determined in a manner other than in conformity with generally accepted accounting principles if it is found that the other manner of preparation or determination is necessary or appropriate to carry out the purposes or provisions of this division. A report required pursuant to the provisions of this subdivision shall not be available for other than regulatory purposes.

SEC. 3.5. Section 5206 of the Financial Code is amended to read:

5206. Whenever the terms "board of directors," "directors," or "director" are used in any provision of law, such terms shall mean, with respect to savings banks organized under this division, "board of trustees," "trustees," or "trustee."

SEC. 4. Section 5403 of the Financial Code is amended to read:

5403. (a) Before filing an application for an organizing permit with the commissioner under Section 5400, an organizer shall file with the Secretary of State an application for a certificate of a reservation of the name for the proposed association in accordance with the provisions of Article 5 (commencing with Section 5650).

(b) The application filed with the Secretary of State shall recite the fact of the application to be filed under Section 5400 and the Secretary of State shall issue a certificate of reservation of name upon payment of any required fee.

(c) Notwithstanding the provisions of subdivision (c) of Section 201 of the Corporations Code, the name contained in the certificate of reservation of the name shall be reserved to the applicant until (1) the commissioner denies the petition for a certificate of authority, or (2) if a certificate of approval of articles of incorporation is issued, as long as it continues in effect, or (3) for a period of up to one year from the date when the certificate of reservation of the name is issued, whichever of these occurs first.

(d) The Secretary of State may, upon the request of the applicant and the approval of the commissioner, extend the reservation of the name for an additional six months.

SEC. 4.5. Section 5501.5 is added to the Financial Code, to read:

5501.5. The articles of incorporation of each domestic association incorporated after January 1, 1984, shall include a statement that it is formed for each of the following purposes:

(a) To engage primarily in the specific business of a savings association and any other lawful activities not prohibited to a savings

association by applicable laws and regulations.

(b) To encourage industry, frugality, home building, and the accumulation of savings. Such statement shall add either "among its members" or "among its savings account holders" and may also add "and among others."

(c) For the loaning of the money accumulated, with the interest and earnings thereon. The statement shall add either "to its members" or "to its savings account holders" and the statement may also add "and to others."

(d) For the repayment subject to the provisions of this division and any act amendatory thereof or supplementary thereto of the savings and interest to each savings account holder whenever the savings account holder desires to withdraw the same, or when the association desires to repay the same.

(e) In the case of a stock association, for the purpose of issuing capital stock and savings accounts; and

(f) For any and all purposes specified in the Savings Association Law with all the rights, powers, privileges and immunities as set forth in that law.

The above provisions are in lieu of paragraph (1) of subdivision (b) of Section 202 of the Corporations Code and may be supplemented or modified with such provisions as the commissioner may approve.

SEC. 5. Section 5650 of the Financial Code is amended to read:

5650. Notwithstanding the provisions of subdivision (a) of Section 201 of the Corporations Code and Division 1 of the Financial Code, the name of every association shall include either the words "savings association," "savings and loan association," "savings bank" or such other designation as the commissioner may approve. These words shall be preceded by an appropriate descriptive word or words approved by the commissioner.

SEC. 5.5. Section 5654 of the Financial Code is amended to read:

5654. (a) Without the prior approval of the commissioner, as provided in this division, no association shall do any of the following:

(1) Establish or maintain any office, other than its home office, which shall be in the location named in the certificate of authority.

(2) Change the location or designation of any office from its approved location or designation.

(3) Change its corporate name by amendment of its articles of incorporation and its certificate of authority. A change of name is subject to the same criteria as set out in Sections 5650 and 5651.

(4) Amend its articles of incorporation.

(5) Establish or maintain a subsidiary.

(b) Applications for approval under this section shall be accompanied by any filing fee prescribed by the commissioner pursuant to Section 9001.

(c) A public hearing may be held on applications filed under this section in accordance with procedures prescribed by law or by regulations adopted by the commissioner.

(d) No certificate of amendment or other certificate to amend the

articles of incorporation of an association shall be filed in the office of the Secretary of State unless there is attached thereto the certificate of the commissioner approving the same.

SEC. 5.7. Section 5713 of the Financial Code is amended to read:

5713. After a meeting as provided for in Section 5710, the federal association shall take or cause to be taken such action as shall make it an association in the manner prescribed and authorized by this division. The directors elected at the meeting shall file the documents with applicable fees and take such proceedings as are required by this division in the case of the original incorporation of an association. No association incorporated by conversion from a federal association is required to comply with any of the provisions of law or any regulations promulgated by the commissioner relating to the minimum amounts of capital required to be subscribed in connection with the original incorporation of an association under this division.

SEC. 6. Section 5750 of the Financial Code is amended to read:

5750. (a) Pursuant to a plan or agreement (referred to as "agreement" in this article) adopted by the board of directors and approved by the commissioner as fair, just and equitable, and as adequately protecting the interests of the association, its members, or stockholders, its savings account holders and the public, an association shall have the power to reorganize or to merge or consolidate with or transfer all or substantially all its assets to another association or federal association, or any other corporation, provided that the principal terms of the plan of the reorganization, merger, consolidation, or transfer shall, in the case of a stock association, be approved at an annual meeting or at any special meeting, or by the written consent of the stockholders voting on the action, by not less than a majority of the total number of votes eligible to be cast. In the case of a mutual association, if required by the commissioner, the principal terms of such a plan shall be approved by members representing not less than a majority of the voting power.

(b) In all cases the survivor association shall succeed to all the rights, obligations, and relations of the constituent associations.

(c) As a step in a plan of the reorganization, merger, consolidation, or transfer under this section, an association or its stockholders or members may organize an interim institution. As used in this section, "interim institution" means an association formed to facilitate the acquisition of 100 percent of the voting stock of an existing association or other insured stock institution by or for a newly formed company or an existing savings and loan holding company or to facilitate any other transaction the commissioner may approve.

SEC. 7. Section 5759 of the Financial Code is amended to read:

5759. An association may acquire all or at least 90 percent of the issued and outstanding stock of another association, or any other corporation, with the prior written approval of the commissioner upon conditions that the commissioner may impose as a step in a plan

of merger to be approved by the commissioner. The acquisition of stock shall be upon terms as may be approved by the board of directors of the acquiring association and ratified by the vote or written consent of holders of a majority of the outstanding stock of each class of stockholders of the acquiring association.

SEC. 7.5. Section 5801 of the Financial Code is amended to read:

5801. No person may become a savings and loan holding company unless the commissioner approves a completed application. The application shall be in a form prescribed by the commissioner, contain the following information and any additional information that the commissioner may determine by regulation to be necessary or appropriate to preserve the public interest, the integrity of the state's savings association system, and to protect the interests of savings account holders, borrowers, and stockholders resident in this state:

(a) The identity, experience, and financial and managerial resources of each acquiring person by whom or on whose behalf the application is made.

(b) The terms, conditions, and method of any proposed acquisition, including copies of all tender offers used or to be used in connection with any proposed acquisition of capital stock.

(c) The source, kind, and amount of the consideration used or to be used in making the acquisition, and, if any part of the consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of all participating persons.

(d) Any plans or proposals that any acquiring person may have to liquidate or convert the association or savings and loan holding company, to sell its assets or merge it with any company, to change the number of its employees in this state or the terms and conditions of their employment, or to make any other substantial change in its business, corporate structure, management or employees upon becoming a holding company.

(e) The names of those officers and directors that the acquiring person proposes to install in any change of managements, and for each of those officers and directors a financial statement, a description of experience in savings association related matters, and a statement as to whether the officer or director ever has been found guilty of misrepresentation, fraud, or financial misdealings.

(f) If any tender offer, request or invitation for tenders or other agreement to acquire control is proposed to be made by means of a registration statement under the Federal Securities Act of 1933, as amended, or in circumstances requiring the disclosure of similar information under the Federal Securities Exchange Act of 1934, as amended, or in an application filed with the Federal Home Loan Bank Board requiring similar disclosure, that registration statement or application may be filed with the commissioner in lieu of the requirements of this section.

SEC. 8. Section 6053 is added to the Financial Code, to read:

6053. In the case of an association which converts from a mutual association to a stock association, for a period of up to five years from the date of conversion, special meetings of the stockholders of a stock association may be called at any time by the president, or the board of directors, and shall be called by the president, vice president, or secretary upon the written request of stockholders holding of record in the aggregate at least 20 percent of the outstanding shares of the association, which request shall state the purpose of the meeting and shall be delivered at the principal office of the association addressed to the president. The date for any special meeting called by stockholders shall be set by the board of directors and shall be not less than 60 nor more than 90 days after the date of receipt of the request.

SEC. 9. Section 6150 of the Financial Code is amended to read:

6150. (a) The business of each association shall be directed by a board of directors elected by ballot by a plurality of the votes of the members or stockholders present or voting by proxy.

(b) In the case of an association which converts from a mutual association to a stock association, for a period of up to five years from the date of conversion, cumulative voting shall not be required in the election of directors unless otherwise provided in the association's articles of incorporation.

SEC. 10. Section 6152 of the Financial Code is amended to read:

6152. (a) A director shall automatically cease to be a director upon being adjudicated as bankrupt or upon conviction of a criminal offense involving dishonesty or a breach of trust.

(b) In the case of an association which converts from a mutual association to a stock association, for a period of up to five years from the date of the conversion, a director may not otherwise be removed except for cause on the affirmative vote of a majority of the votes of members or stockholders eligible to be cast at a legal meeting.

SEC. 10.3. Section 6521 of the Financial Code is amended to read:

6521. (a) Notwithstanding the provisions of Division 6 (commencing with Section 17000) or any other provision of law, an association or service corporation may act as an escrow agent in connection with the sale, transfer, encumbering or leasing of real property.

(b) The name for any subdivision or subsidiary of an association operating as an escrow agent pursuant to this section, if different from the name of the association, shall be approved by the commissioner.

SEC. 10.5. Section 6528 is added to the Financial Code, to read:

6528. An association may provide correspondent services primarily to other depository institutions to the extent that the activity does not violate other provisions of law.

(a) An association may maintain a noninterest-bearing account at any institution at which accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, if the account is necessary or incidental to a

correspondent relationship.

(b) An association may receive non-interest-bearing deposits from correspondent institutions for use as compensating balances, for settlement purposes, or for other purposes incidental to a correspondent relationship. These deposits may be payable on demand and subject to withdrawal by negotiable or transferable instrument, order, or authorization. These deposits shall not give rise to voting rights of membership in a state mutual association.

SEC. 11. Section 6650 of the Financial Code is amended to read:

6650. As used in this article:

(a) "Account" means withdrawable or repurchasable shares, investment certificates, deposits or savings accounts as defined in Section 561.11 of Title 12 of the Code of Federal Regulations or in regulations promulgated pursuant to Section 3502 of Title 12 of the United States Code, pursuant to which the account holder from time to time may make deposits and effect withdrawals.

(b) "Account holder" means a person who is identified on the signature card for an account, or in the absence of a signature card, a person who has an interest in an account which is reflected on the records of the association for that account to whom statements of account or other notices are normally given, or the agent of such person.

(c) "Charges" means those charges which an association may, from time to time, impose on an account in the normal course of business in the operation of the account and, does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the account holder.

(2) Charges or amounts required to be disclosed to the depositor pursuant to the Truth-in Lending Act (15 U.S.C. 1601, et. seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended.

SEC. 11.1. Section 6950 of the Financial Code, as amended by Chapter 287 of the Statutes of 1984, is amended to read:

6950. (a) When a savings account is held in any association or federal association by a person who dies while a resident of another state or country, the account, together with additions and interest, or any part of it, shall be exempt from any taxation otherwise imposed by this state and may be paid to the administrator or executor appointed in the state or country where the account holder resided at the time of death or other claimant under the Probate Code, provided the administrator, executor or other claimant has furnished the association or federal association with all of the documentation required under applicable provisions of the Probate Code and evidence of ownership of the account, if any, issued under Section 6652.

(b) Upon payment or delivery to the administrator, executor, or other claimant after receipt of the documents specified in subdivision (a), the association or federal association is released and discharged to the same extent as if the payment or delivery had been made to a legally qualified resident executor or administrator, and is

not required to account for the application or disposition of the property.

SEC. 11.2. Section 7457 is added to the Financial Code, to read:

7457. An association may make loans on the security of its savings accounts, whether or not the borrower is the owner of the account, subject to the limitations of this article.

SEC. 11.3. Section 7458 is added to the Financial Code, to read:

7458. An association may make overdraft loans specifically related to transaction accounts, subject to regulations issued by the commissioner.

SEC. 11.5. Section 7500 of the Financial Code is amended to read:

7500. (a) No investment in a real estate loan shall be made until a qualified person or persons approved by the board of directors shall have made a physical inspection and submitted a signed appraisal of the value of the real estate securing the loan, or in the case of a purchased loan, have reviewed and approved the appraisal report in support of the loan.

(b) For the purpose of determining appraised value, unimproved property without offsite improvements shall be evaluated as though offsite improvements have been installed if a subdivision map has been recorded and a bond or other instrument guaranteeing installation of the offsite improvements has been accepted by the governing authorities in connection with the recording of the subdivision map.

SEC. 11.7. Section 7500 of the Financial Code is amended to read:

7500. (a) Subject to limitations, if any, within this chapter, an association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) loans made on the security of residential or nonresidential real estate, or interests in such loans.

(b) No investment in a real estate loan shall be made until a qualified person or persons approved by the board of directors shall have made a physical inspection and submitted a signed appraisal of the value of the real estate securing the loan, or in the case of a purchased loan, have reviewed and approved the appraisal report in support of the loan.

(c) For the purpose of determining appraised value, unimproved property without offsite improvements shall be evaluated as though offsite improvements have been installed if a subdivision map has been recorded and a bond or other instrument guaranteeing installation of the offsite improvements has been accepted by the governing authorities in connection with the recording of the subdivision map.

SEC. 12. Section 7451 of the Financial Code is amended to read:

7451. Except as otherwise provided by the commissioner, an association shall not make any one loan in an amount exceeding the net worth of the association at the time the loan is made.

SEC. 13. Section 7507 of the Financial Code is repealed.

SEC. 14. Section 7507 is added to the Financial Code, to read:

7507. Subject to the regulations of the commissioner, an association may make loans or advances of credit, or invest in interests therein, on the security of real property, which loans, advances of credit, or investments are not otherwise authorized under the law because of the following reasons:

(a) The loan-to-value ratio, stated maturity, or loan amount is in excess of the maximum allowable limits.

(b) Lack of any required borrower certification or required private mortgage insurance.

(c) The loan would cause an applicable percentage-of-assets category to be exceeded.

(d) A combination of the foregoing factors.

Investments made under the authority of this section are subject to the following restrictions:

(1) No association shall have investments under this section aggregating at any one time more than 10 percent of its total assets.

(2) Each investment made under this section shall be fully documented to support the conclusion that it was made on a prudent basis.

(3) Loans made pursuant to this section shall comply with subparagraph (D) of paragraph (5), and paragraph (6), of subdivision (b), of Section 7504, where applicable.

SEC. 15. Section 7508 of the Financial Code is repealed.

SEC. 15.5. Section 8034 of the Financial Code is amended to read:

8034. (a) If a new domestic association is formed during a fiscal year, the initial assessment provided for by this article shall be computed on the same basis as if such new association had been an association and assessed on or before the 20th day of June in the fiscal year preceding the initial assessment except that the initial assessment shall be based on the assets of the new association at the time of issuance of its certificate of authority and, except as provided in subdivision (b), the assessment shall be reduced, if the certificate of authority is not issued in July, by one-twelfth for each full month of the fiscal year which has expired at the time of issuance of the certificate of authority and shall be payable in full on the date of issuance.

(b) In the levy and collection of an assessment under this article, no association shall be assessed for, or be permitted to pay less than five hundred dollars ($500) for the unexpired portion of the fiscal year in which the domestic association is formed.

SEC. 16. Section 8150 of the Financial Code is amended to read:

8150. (a) On or before the last day of January in each year, or within 30 days following the end of the fiscal year, each association, savings and loan holding company, and those subsidiaries of an association or savings and loan holding company that the commissioner may require, shall make an annual written report to the commissioner, in a format to be prescribed by the commissioner.

(b) Each report shall be verified by an authorized officer.

SEC. 17. Section 8156 of the Financial Code is amended to read:

8156. (a) Each association shall at least annually cause its books and accounts to be audited at its own expense by a certified public accountant or firm of certified public accountants selected by the association and approved by the commissioner.

(b) The annual audit shall cover the calendar year unless the association or commissioner fixes a different period pursuant to Section 6453.

SEC. 17.3. Section 8225 of the Financial Code is amended to read:

8225. (a) If the commissioner, as a result of any examination or from any report, believes that the public interest may be served by the appointment of a conservator, and if the commissioner finds that any association (1) is in an impaired condition, (2) is engaging in practices that threaten to result in an impaired condition, or (3) is in violation of an order or injunction, as authorized by this division, that has become final in that time to appeal has expired without appeal or a final order has been entered from which there can be no appeal, the commissioner may appoint a conservator for the association.

(b) The conservator may be the commissioner, deputy commissioner or any other person, and upon appointment shall apply immediately to a court of general jurisdiction in the county in which the home office of the association is located for confirmation of the appointment, and the court shall have exclusive jurisdiction to determine the issues and all related matters. The proceedings shall be given precedence over other cases pending in court and shall in every way be expedited.

(c) The court shall confirm the appointment if it finds that one or more grounds exist, and a certified copy of the order of the court confirming the appointment is conclusive evidence of the appointment.

(d) The conservator shall have the power and authority provided in this division and any other power and authority that may be expressed in the order of the court.

(e) The conservator shall endeavor promptly to remedy the situations complained of by the commissioner in the application for confirmation of appointment.

(f) Within six months of the date of appointment of the conservator, or within 12 months if the court extends the six months' period, the association shall be returned to its board of directors to be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as provided in Section 8250.

(g) If the commissioner or a department employee is appointed conservator no additional compensation shall be paid, but if another person is appointed then the compensation of the conservator, as determined by the court, shall be paid by the association.

(h) A certified copy of the order of the court discharging the conservator and returning the association to the directors shall be sufficient evidence of the return.

SEC. 17.5. Section 8227 of the Financial Code is amended to read:

8227. Except as authorized by the commissioner, the conservator shall not retain special counsel or other experts, incur any expense other than normal operating expenses, or liquidate assets except in the ordinary course of operations.

SEC. 17.7. Section 8229 of the Financial Code is amended to read:

8229. (a) While the association is in the charge of a conservator, savings account holders, borrowers, and other obligors of the association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator may permit savings account holders to withdraw their accounts from the association pursuant to the provisions of this division but shall not declare, credit, or distribute interest for savings accounts without prior approval of the commissioner.

(b) The conservator shall have power to accept savings accounts and additions to savings accounts, but any amounts received by the conservator may be segregated if the commissioner shall so order in writing. If so ordered, these amounts shall not be subject to offset and shall not be used to liquidate any indebtedness of the association existing at the time the conservator was appointed for it or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of the association existing at the time the conservator was appointed.

(c) All expenses of the association during conservatorship shall be paid by the association.

SEC. 17.9. Section 8250 of the Financial Code is amended to read:

8250. (a) If the commissioner finds that any association (1) is in an impaired condition, (2) is engaging in practices that threaten to result in an impaired condition, or (3) is in violation of an order or injunction issued pursuant to this division that has become final in that the time to appeal has expired without appeal or a final order has been entered from which there can be no appeal, the commissioner may appoint a receiver for the association.

(b) The receiver may be the commissioner, deputy commissioner or any other person, and upon appointment shall apply immediately to a court of general jurisdiction in the county in which the home office of the association is located for confirmation of the appointment, and the court shall have exclusive jurisdiction to determine the issues and all related matters. The proceedings shall be given precedence over other cases pending in court, and shall in every way be expedited.

(c) The court shall confirm the appointment if it finds that one or more grounds exist, and a certified copy of the order of the court confirming the appointment is conclusive evidence of the appointment.

SEC. 18. Section 53630 of the Government Code is amended to read:

53630. As used in this article:

(a) "Local agency" means county, city, city and county, including a chartered city or county, or other public agency or corporation.

(b) "Treasurer" means treasurer of the local agency.

(c) "Depository" means a state or national bank, a state or federal savings bank or savings and loan association, or a state or federal credit union in which the moneys of a local agency are deposited.

(d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco.

(e) "Security" means any of the eligible securities or obligations listed in Section 53651.

(f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.

(g) "Administrator" means the Administrator of Local Agency Security of the State of California.

SEC. 19. Section 3 of this act shall become operative only if AB 2435 of the 1983–84 Regular Session adds Section 5205.5 to the Financial Code and is chaptered and becomes effective on or before January 1, 1985, and this bill is enacted after AB 2435.

SEC. 20. Section 11.7 of this bill incorporates amendments to Section 7500 of the Financial Code proposed by both this bill and AB 2435. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 7500 of the Financial Code, and (3) this bill is enacted after AB 2435, in which case Section 7500 of the Financial Code, as amended by AB 2435, shall remain operative only until the operative date of this bill, at which time Section 11.7 of this bill shall become operative, and Section 11.5 of this bill shall not become operative.

CHAPTER 869

An act to amend Section 1182.5 of the Labor Code, relating to wages, hours, and working conditions.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 1182.5 of the Labor Code is amended to read:

1182.5. (a) The Legislature finds that the time permitted the Industrial Welfare Commission to consider daily overtime compensation petitions that are to be given priority attention by the commission pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated delays in the review and possible modification of applicable commission orders for preexisting workweek arrangements, as defined in subdivision (b). The

Legislature finds further that legislation is necessary to provide redress of hardships resulting from these unanticipated delays by the enactment of special commission review procedures that augment, and do not limit in any way, the rights and privileges of parties before the Industrial Welfare Commission under this chapter.

(b) For purposes of this section only, a "preexisting workweek arrangement" is defined as, and limited to, a workweek arrangement that existed before November 1980, and had to be modified or abandoned by an employer because the workweek arrangement did not qualify for any exemption provided by the Industrial Welfare Commission from its daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable commission order.

(c) An employer who has had in operation an established preexisting workweek arrangement may, prior to July 1, 1985, file a verified petition with the commission for review and modification of an applicable order and, upon filing this petition, shall simultaneously file a copy with the Labor Commissioner. Upon receipt of the petition by the Labor Commissioner a stay of enforcement of the applicable commission order as it would affect the workweek arrangement shall take effect. The Labor Commissioner may reject a petition that, on its face, cannot qualify as a preexisting workweek arrangement. Within three months of commencement of the stay the Labor Commissioner shall certify the preexisting workweek arrangement to the commission if, upon examination, the Labor Commissioner finds that all of the following conditions are met by the workweek arrangement:

(1) It was established by the petitioning employer and was in operation prior to November 1980.

(2) It had to be abandoned or modified by the employer because of noncompliance with the applicable order of the commission.

(3) It was established on a nondiscriminatory basis with the support of affected employees and it continues to have the support of two-thirds of the employees in the covered work group.

(4) It complied with all applicable standards of the commission, other than daily overtime requirements.

(5) It is found, after consultation with the Director of Industrial Relations when appropriate, not to be adverse to the health and welfare of affected employees.

In the course of examining a preexisting workweek arrangement and following certification, the Labor Commissioner shall not divert any of the resources of the Division of Labor Standards Enforcement for the purpose of investigating, prosecuting, or otherwise acting upon any alleged violations of the daily overtime provisions of an applicable commission order during any period in 1980 in which a court-issued stay of enforcement was in effect for these provisions; provided, the workweek arrangement involved was in operation during that period in good faith reliance by the employer upon the court-issued stay of enforcement and with the approval of two-thirds

of the employer's affected employees.

(d) In the course of examining a petition for certification to the commission, the Labor Commissioner shall have access to all pertinent records of the petitioning employer and shall have the authority to converse with affected employees of the employer without the presence of management. Until the commission takes action on a petition, the Labor Commissioner shall retain the authority to withdraw a certification to the commission for cause.

(e) Upon receipt by the commission of the Labor Commissioner's certification of a preexisting workweek arrangement, the stay of enforcement shall continue as hereinafter provided beyond the three-month period for certification until modified or rescinded by the commission. The modification or rescission shall not be made without an appropriate hearing and findings regarding the applicable order. If the commission undertakes review of the applicable order, the stay of enforcement shall continue through the review process and until any resulting modification of the applicable order, in which case, the modified order shall become applicable to the preexisting workweek arrangement.

SEC. 2. The Industrial Welfare Commission shall give notice in the commission's next regular mailing to persons and organizations on its mailing list of the deadline imposed by this bill for the filing of a verified petition pursuant to Section 1182.5 of the Labor Code. This notice shall not impose any additional cost on the commission.

CHAPTER 870

An act to amend Sections 9902 and 9941 of, to add Sections 9946.1 and 9997.1 to, to add Article 3.5 (commencing with Section 9958) to Chapter 21 of Division 3 of, to add Section 9995.1 to, to repeal Chapter 20.5 (commencing with Section 9890) of, and to repeal Section 9915 of, Division 3 of the Business and Professions Code, relating to nurses' registries.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Chapter 20.5 (commencing with Section 9890) of Division 3 of the Business and Professions Code is repealed.

SEC. 1.3. Section 9902 of the Business and Professions Code is amended to read:

9902. As used in this chapter, "employment agency" or "agency" means any of the following:

(a) The business of conducting, in any capacity, an intelligence office, employment agency, registry, or any agency, business or office which procures, offers, promises or attempts to procure employment

or engagements for others or employees for employers, or for the registration of persons seeking to procure or retain employment or engagement, or for giving information as to where and from whom such help, employment or engagement may be procured, or for providing employment or engagements where a fee or other valuable consideration is exacted, or attempted to be collected, directly or indirectly, for such services, regardless of where such business is conducted.

(b) Any person, service, bureau, organization, club, résumé service, or employment counseling service, which by advertisement or otherwise offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(c) Any person who acts as a labor contractor.

(1) A labor contractor is any person, who, for a fee or other compensation, employs an individual to render personal services to, for or under the direction of a third person.

(2) "Bona fide employees" or "employees," when used with reference to the employees of a labor contractor, refers to the employees rendering services to the labor contractor and not to the individuals employed by the labor contractor to render personal services to, for or under the direction of a third person.

(3) A central hiring establishment, intelligence office, registry other than a nurses' registry, agency or place maintained without cost to applicants for employment by groups of employers or groups of employers and employees, or a person licensed under Chapter 9 (commencing with Section 7000) of Division 3 of this code, does not constitute a labor contractor within the meaning of this chapter.

(4) A person employing individuals to render personal services to, for or under the direction of a third person is not a labor contractor within the meaning of this chapter if the person employing the individuals, in addition to wages or salaries, pays federal social security taxes, state and federal unemployment insurance, carries workers' compensation insurance as required by state law, and sustains responsibility for the acts of his employees while rendering services to, for or under the direction of a third person, and has no applicant-paid liquidated damage clause. The person employing individuals to render personal services shall not send the employees to any place where a strike, lockout or labor dispute exists.

SEC. 1.5. Section 9915 of the Business and Professions Code is repealed.

SEC. 2. Section 9941 of the Business and Professions Code is amended to read:

9941. (a) The bureau shall issue two types of licenses:

(1) An employment agency license.

(2) An interim employment agency license.

(b) The bureau may, when issuing a license under this chapter,

restrict the type of employment agency business which may be conducted under the license to one or more of the following categories:

(1) General. This category authorizes the licensee to engage in the business of finding all types of employment for others and charging a fee to either applicants or employers or both applicants and employers for such service.

(2) Babysitting. This category authorizes the licensee to engage exclusively in the business of providing babysitting employment for others.

(3) Domestic. This category authorizes the licensee to engage exclusively in the business of procuring domestic employment for others.

(4) Modeling. This category authorizes the licensee to engage exclusively in the business of procuring modeling employment for others.

(5) Farm labor. This category authorizes the licensee to engage exclusively in the business of procuring farm labor employment for others.

(6) Employer retained. This category authorizes the licensee to engage in the business of finding all types of employment for others, except domestic employment, while charging fees exclusively to employers for such service.

(7) Nurses' registry. This category authorizes the licensee to engage exclusively in the business of a nurses' registry.

(c) In restricting the license to one or more of these categories, the bureau shall consider all of the following:

(1) The applicant's experience.

(2) The type of employment agency business which the applicant proposes to conduct.

SEC. 3. Section 9946.1 is added to the Business and Professions Code, to read:

9946.1. All applicants for an original license as a nurses' registry shall successfully complete an examination prescribed by the bureau prior to receiving a certificate of licensure. All persons licensed as nurses' registries on January 1, 1985, shall successfully complete the examination prescribed by the bureau for original applicants for licensure on or before April 1, 1986, as a condition of renewing their license thereafter.

SEC. 4. Article 3.5 (commencing with Section 9958) is added to Chapter 21 of Division 3 of the Business and Professions Code, to read:

Article 3.5. Nurses' Registries

9958. "Nursing service" means the assignment of a nurse, as a private duty, self-employed, licensed registered nurse, licensed vocational nurse, or practical nurse to render service to a patient under the direction or supervision of a physician or surgeon

registered to practice in this state.

9958.2. "Nurses' registry" means a person who engages in the business of obtaining and filling commitments for nursing service and who may incidentally make referrals, not to exceed one-tenth of the total annual nursing assignments, for nursing employment other than private duty nursing.

9958.3. "Private duty nurse" means a self-employed nurse rendering service in the care of the patient either physically or mentally ill, under the direction of a physician or surgeon, but who is paid by either the patient or the designated agent of the patient and who accepts the responsibilities of a self-employed private contractor.

9958.4. Nurses' registries may enter into a continuing contract with private duty nurses covering the assignment of such nurses by such nurses' registries. The continuing contract shall state:

(a) The name, address, and telephone number of the nurses' registry.

(b) The name, address, and telephone number of the nurse.

(c) The fee schedule of the nurses' registry currently on file with the bureau.

(d) The date of its execution by the nurses' registry and the nurse.

(e) The contract shall specify that the provisions thereof are to govern only the assignment of private duty nurses and shall do all of the following:

(1) Designate the nurses' registry as the continuous agent of the nurse for purposes of assignment.

(2) Provide that the contract in effect may be terminated at any time by written notice given by one to the other for any future assignment.

(3) Provide for delivery to the nurse at the time of the execution of the contract a written schedule of the rates of nurses' charges currently agreed to between the nurses' registry and the nurse for the nurses' services to the patient.

(4) State that the nurses' registry will immediately notify the nurse in writing of all subsequent changes in the rates to be charged the patient for services, and that the nurse shall agree to abide by these rates.

(5) Contain express undertakings by the nurses' registry that it shall continuously maintain true and correct records of orders and assignments as provided in this chapter.

(6) Provide that the nurses' registry shall periodically and at least once each month render to the nurse a written statement of all fees claimed to be due the nurses' registry, and further that such statement shall adequately identify each assignment as to the inception date and period of service covered by the claim, including the name of the patient and the amount of service fee claimed.

(7) Contain appropriate wording advising the nurse of his or her right to dispute the correctness of any service fee claimed by the nurses' registry in such written statement above referred to, and that

in the absence of objections with a reasonable time, any such service fee may be presumed to be correctly charged.

(8) Include any other term, condition, or understanding agreed upon between the nurses' registry and the nurse.

9958.5. Each contract shall be numbered consecutively in original and duplicate, both to be signed by the nurse and the nurses' registry. The original shall be given to the nurse and the duplicate shall be kept on file at the nurses' registry within the nurses' records.

9958.6. Each nurses' registry shall submit to the bureau all forms of contract to be utilized by such nurses' registry in entering into written contracts with private duty nurses for the use of the services of such nurses' registry, and shall secure approval as to form from the bureau. Such approval shall not be withheld as to any proposed form of contract, when at least the basics of all of the eight foregoing points are included in the contract. The following statement shall be printed on the face of the contract in prominent type: "This nurses' registry is licensed by the Bureau of Employment Agencies."

9958.7. It shall be the duty of the nurses' registry to verify in writing the claims as to the experience or training listed on the application and to keep a file of such records in the nurse's folder within the nurses' registry. It shall also be the duty of the person interviewing the applicant to require the applicant to exhibit his or her license, with a notation to be made on the application by the interviewer that such license has been inspected and the date of expiration of such license.

9958.8. Each nurses' registry shall continuously maintain in its offices true and correct permanent log sheets and other records which shall disclose, in addition to the other information required, the date and hour of the receipt by the nurses' registry of each order for a private duty nurse, and the date and hour of the making or giving of each assignment to the nurse by the nurses' registry, together with the name of the nurse assigned. No nurses' registry, his or her agent or employees, shall make any false entry in such records.

9958.9. No nurses' registry shall divide fees with any physician and surgeon, nurse, hospital, patient or any agent or employee of any of these.

9958.10. No person shall accept a fee from a private duty nurse because of an assignment for nursing service unless such person is licensed by the bureau as a nurses' registry.

9958.11. In the event that a nurses' registry collects from a nurse a fee or expenses for an assignment, and the nurse fails to obtain such assignment, or the nurse fails to be paid for the assignment, the nurses' registry shall, upon demand therefor, repay to the nurse the fee and expenses so collected.

Unless such repayment is made within 48 hours after demand, the nurses' registry shall pay to the nurse an additional sum equal to the amount of the fee.

SEC. 4.5. Section 9995.1 is added to the Business and Professions Code, to read:

9995.1. Notwithstanding any other provision of law, all fees and revenues contained in the Nurses' Registry Fund on the effective date of this section shall be transferred to the Bureau of Employment Agencies Fund.

SEC. 5. Section 9997.1 is added to the Business and Professions Code, to read:

9997.1. Notwithstanding any other provision of law, the bureau, subject to the approval of the director, shall fix and charge the following fees relating to nurses' registries:

(a) A fee not to exceed fifty dollars ($50) for each new application for license.

(b) A fee not to exceed one hundred fifty dollars ($150) for an initial license.

(c) A fee not to exceed one hundred fifty dollars ($150) for renewal of any nurse registry license.

(d) A reinstatement fee not to exceed 150 percent of the renewal fee, but not more than twenty-five dollars ($25) in excess of the maximum statutory renewal fee.

(e) A fee not to exceed one hundred dollars ($100) for an application for a branch license.

(f) A fee not to exceed seventy-five dollars ($75) for the initial issuance of, and for any renewal of, a branch license.

(g) A fee not to exceed fifty dollars ($50) to transfer or assign a license.

(h) A filing fee not to exceed fifty dollars ($50) for application for examination or reexamination.

CHAPTER 871

An act to amend Section 3144 of the Civil Code, relating to mechanics' liens.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 3144 of the Civil Code is amended to read:

3144. (a) No lien provided for in this chapter binds any property for a longer period of time than 90 days after the recording of the claim of lien, unless within that time an action to foreclose the lien is commenced in a proper court, except that, if credit is given and notice of the fact and terms of such credit is recorded in the office of the county recorder subsequent to the recording of such claim of lien and prior to the expiration of such 90-day period, then such lien continues in force until 90 days after the expiration of such credit, but in no case longer than one year from the time of completion of the work of improvement.

(b) If the claimant fails to commence an action to foreclose the lien within the time limitation provided in this section, the lien automatically shall be null and void and of no further force and effect.

CHAPTER 872

An act to add and repeal Section 480.4 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 480.4 is added to the Revenue and Taxation Code, to read:

480.4. (a) Every owner of tax-exempt real property shall report to the local assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other document which conveys the right to use that real property within 60 days of the transaction. The report shall include all of the following:

(1) The name and address of the owner.

(2) The names and addresses of all other parties to the transaction, including an identification of each party and of his or her possessory interest.

(3) The type of transaction, whether creation, renewal, sublease, or assignment.

(4) A description of the property.

(5) The date of the transaction.

(6) The terms of the transaction, including all of the following:

(A) The consideration for the possessory interest, whether paid in money or otherwise.

(B) The term of the possessory interest, including any renewal or extension options.

(C) If a sublease, the original term, the remaining term, and the consideration paid for the master lease.

(D) If an assignment, the original term, the remaining term, and the consideration paid for the underlying lease.

(b) This section shall be applicable only in those counties in which the board of supervisors, by ordinance or resolution, specifically elects to have this section applicable in the county. This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1991, deletes or extends that date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose

of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district within any county which elects to be subject to the provisions of Section 1, other than the county itself, may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 873

An act to amend Sections 18041, 18210, and 18272 of, and to repeal Section 18210 of, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 18041 of the Financial Code is amended to read:

18041. (a) The commissioner may establish rules and regulations regarding the sale of any real property acquired pursuant to subdivision (a) or (b) of Section 18040, consistent with what constitutes sound business practices for industrial loan companies.

(b) Real property acquired pursuant to subdivision (a) or (b) of Section 18040 shall not be held for a longer period than five years without the written consent of the commissioner.

SEC. 2. Section 18210 of the Financial Code, as amended by Chapter 480 of the Statutes of 1983, is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivision (b), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless the loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term which shall not exceed 10 years from the date the loan or other obligation is made or acquired by the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property and shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except that consumer loans or obligations secured solely by personal property shall have a term not to exceed the term provided for in Section 18205 and except as otherwise may be provided for in Sections 18207, 18208, and 18209.

(c) Notwithstanding any other provision of this division, an

industrial loan company may make loans and acquire or discount obligations having a term in excess of three years secured primarily by real property pursuant to subdivision (a) or secured solely by real property pursuant to subdivision (b), provided that all of the loans and obligations in excess of three years shall not in the aggregate exceed 35 percent of the industrial loan company's total outstanding loans and obligations.

SEC. 3. Section 18210 of the Financial Code, as added by Chapter 857 of the Statutes of 1981, is repealed.

SEC. 4. Section 18272 of the Financial Code is amended to read:

18272. An industrial loan company shall diversify the loans and lease obligations it makes and other obligations it acquires, both as to the types of debtors and obligors, types of collateral, and as to terms and types of repayment schedules. The requirement for diversification notwithstanding, an industrial loan company may specialize in its lending, leasing, and other authorized practices under this division. The commissioner may promulgate rules and regulations pursuant to this section.

CHAPTER 874

An act to add Section 115.3 to the Penal Code, relating to records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 115.3 is added to the Penal Code, to read:

115.3. Any person who alters a certified copy of an official record, or knowingly furnishes an altered certified copy of an official record, of this state, including the executive, legislative, and judicial branches thereof, or of any city, county, city and county, district, or political subdivision thereof, is guilty of a misdemeanor.

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

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

In order to prosecute the practice of altering certified copies of

official state or local records and knowingly furnishing these altered certified copies, as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 875

An act to amend Sections 10010.5, 14404, 23521.5, and 29770 of the Elections Code, relating to elections.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 10010.5 of the Elections Code is amended to read:

10010.5. In each county, the county central committee of each qualified political party may supply to its county clerk, not less than 83 days prior to the direct primary election, a party contributor envelope or a one-page letter, in which both sides may be utilized, to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. In lieu of supplying the clerk with a sufficient number of copies of the one-page letter, a county central committee may supply the clerk, not less than 83 days before the direct primary election, with the text of the letter and request the clerk to print, or cause to be printed, a sufficient number of copies of the letter to accommodate the mailing. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by the inclusion or printing, or both. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure such reimbursement.

Each envelope or letter shall contain a space for the name and address of the contributor and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope or letter shall not contain words critical of any other political party.

All funds received by the return of such party contributor envelopes or in response to the letters shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and any portion allocated to candidates shall be disbursed only to candidates for state office.

SEC. 2. Section 14404 of the Elections Code is amended to read:

14404. A place where the primary purpose of the establishment is the sale and dispensation of alcoholic beverages shall not be used as a polling place. A polling place shall not be connected by a door,

window or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open.

SEC. 3. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding any other provision of law, in any district or agency election, if nomination papers for an incumbent officer of a district are not filed by 5 p.m. on the 88th day before the general district election, any person other than the incumbent shall have until 5 p.m. on the 83rd day before the election to file nomination papers for the elective office.

This section is not applicable where there is no incumbent to be elected.

SEC. 4. Section 29770 of the Elections Code is amended to read:

29770. No one shall knowingly or willfully permit the list of signatures on an initiative, referendum, or recall petition to be used for any purpose other than qualification of the initiative or referendum measure or recall question for the ballot, except as provided in Section 6253.5 of the Government Code. Violation of this section is a misdemeanor.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 876

An act to amend Section 11522 of the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 11522 of the Insurance Code is amended to read:

11522. Every organization or person holding a certificate of authority to receive transfers under this chapter shall file with the commissioner a copy of each agreement entered into between the permit or certificate holder and the transferor, and that organization or person shall pay a basic fee to the commissioner for the filing of each agreement. The basic fee as provided in this section shall be established by rules and regulations adopted by the commissioner pursuant to Section 11521.5 for each agreement filed by the organization or person where up to 10 agreements are filed within

any calendar quarter. Thereafter, within each calendar quarter, the fee for each agreement shall be as follows: 50 percent of the basic fee for 11 to 20 agreements filed; 20 percent of the basic fee for 21 to 30 agreements filed; 10 percent of the basic fee for 31 to 40 agreements filed; and 5 percent of the basic filing fee for 41 or more agreements filed.

The fees as provided herein shall be paid with the filing of the agreements by the organization or person.

CHAPTER 877

An act relating to pesticides.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. The Director of Food and Agriculture shall, with existing resources, ascertain and identify current procedures and requirements for the disposal of surplus pesticides and pesticide containers by agricultural, institutional, industrial, and other pesticide users.

SEC. 2. The Director of Food and Agriculture shall, with existing resources, develop and recommend a procedure, consistent with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 135 et seq.) and regulations and guidelines adopted pursuant to the act, for the disposal of surplus pesticides and pesticide containers designed for residential use that are in the possession of the resident.

SEC. 3. In developing the procedure pursuant to Section 2 of this act, the director shall consult with the Secretary of Environmental Affairs, the Secretary of the Resources Agency, the Secretary of the Health and Welfare Agency, county agricultural commissioners, and representatives of the private sector engaged in the business of manufacturing, selling, or using pesticides. The director may also consult with any other agency or university that the director determines may have an interest in the procedure.

SEC. 4. The director shall report to the Legislature, on or before January 1, 1986, on the current procedures and requirements ascertained and identified pursuant to Section 1 of this act and on the procedure developed pursuant to Section 2 of this act.

CHAPTER 878

An act to add Section 3307 to the Food and Agricultural Code, relating to fairs.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 3307 is added to the Food and Agricultural Code, to read:

3307. (a) All activities conducted at the California Exposition and State Fair are subject to the noise control ordinance, Chapter 66 (commencing with Section 66.101) of the Sacramento City Code, adopted by the City of Sacramento and in effect on December 1, 1983. Amendments to the ordinance made after December 1, 1983, are not applicable to the California Exposition and State Fair.

(b) The California Exposition and State Fair may obtain a variance from the noise ordinance pursuant to the provisions in the ordinance relating to a variance.

CHAPTER 879

An act to amend Section 6217.5 of, to add Section 6217.7 to, to add Division 7.2 (commencing with Section 8700) to, and to repeal Section 6476 of, the Public Resources Code, relating to school lands, and making an appropriation therefor.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 6217.5 of the Public Resources Code is amended to read:

6217.5. Except for the revenues distributed pursuant to Section 3826, all net revenues, moneys, and remittances from the use of school lands and lieu lands shall be deposited in the State Treasury to the credit of the Teachers' Retirement Fund and shall be expended pursuant to Section 24702 of the Education Code.

SEC. 2. Section 6217.7 is added to the Public Resources Code, to read:

6217.7. All net revenues, moneys, and remittances from the sale of school lands and lieu lands shall be deposited in the State Treasury to the credit of the School Land Bank Fund.

SEC. 3. Section 6476 of the Public Resources Code is repealed.

SEC. 4. Division 7.2 (commencing with Section 8700) is added to

the Public Resources Code, to read:

DIVISION 7.2. SCHOOL LAND BANK ACT

8700. This division shall be known and may be cited as the School Land Bank Act.

8701. Unless the context otherwise requires, the definitions in this section govern the construction of this division.

(a) "Commission" means the State Lands Commission.

(b) "Fund" means the School Land Bank Fund.

(c) "Trustee" means the State Lands Commission acting in its role as trustee for the School Land Bank Fund.

(d) "School Land" means land or interests in land granted to the state by an Act of Congress March 3, 1853 (Ch. 145, 10 Stat. 244), for the specific purpose of providing support for the public schools.

8702. The Legislature finds and declares as follows:

(a) Past policies of the state have resulted in significant depletion of the inventory of lands granted by the federal government to provide fiscal support for the public school system.

(b) It is essential that all remaining school lands and attendant interests be managed and enhanced to provide an economic base for support of the public school system.

(c) The commission shall plan and implement all transactions, including exchanges, sales, and acquisitions which would facilitate the management of school land interests for revenue generating purposes.

(d) The state, through the commission, shall take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base.

(e) It is in the best interest of the state that school lands be managed as a revenue source and it is the intent of the Legislature that fair market value be a primary criterion in determining if proposed uses or dispositions of land should be approved.

(f) The consolidation of school land parcels into contiguous holdings is essential to sound and effective management and the power to acquire lands by exchange or purchase is elemental to the consolidation process.

8703. Acquisitions may be made by negotiated agreement with, or purchase from, the owners of the outstanding interests. Nothing in this division confers any authority to exercise the power of eminent domain for the purposes of this division, although that power is statutorily vested in the commission.

8704. The trustee shall make all reasonable attempts to acquire the mineral and other subsurface rights in any acquisition pursuant to this division. If the trustee is unable to acquire the mineral and other subsurface rights, the trustee may purchase real property upon the trustee expressly finding that the benefits to be derived from the acquisition are substantial and that acquisition of the property

without the subsurface rights is in the best interests of the state for the purposes set forth in this division.

8705. The trustee has the exclusive jurisdiction and authority to administer the fund and the interest in real property acquired pursuant to this division, including the selection, acquisition, and conveyance of real property by the trustee as provided in this division.

8706. The state, in its sovereign capacity, shall accept any conveyance, and the land shall thereafter be held by the state as land of the legal character of school lands subject to the school land trust under the jurisdiction of the commission pursuant to Division 6 (commencing with Section 6001).

8707. The commission shall accept the conveyances on the part of the state and shall authorize their acknowledgment and recordation.

8708. Until expended for acquisitions in accordance with this division, moneys in the fund shall be deposited in the Pooled Money Investment Fund and the interest deposited in the fund.

8709. In addition to the purchase price to be paid, the costs and expenses attributable to the acquisition may be payable from the fund, provided that those costs shall not exceed 5 percent of the expended funds.

8710. Actions under this division are not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000), the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

8711. There is in the State Treasury the School Land Bank Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are appropriated to the commission for expenditure, without regard to fiscal years, for the purposes of this division. When performing the powers and duties set forth in this division, the commission shall be known as the School Land Bank Trustee.

8712. The trustee may acquire real property or any interest in real property with the objective of facilitating management of school lands for the purpose of generating revenue.

8713. The trustee shall act only at an open, scheduled public meeting, subject to all provisions of Division 6 (commencing with Section 6001) relating to meetings of the commission. The trustee may combine its meeting with the meetings of the commission.

8715. The provisions of this division are not intended as exclusive, and shall not restrict the commission in otherwise meeting any other responsibilities and jurisdiction the commission presently has by law.

8716. The trustee may accept gifts of real property or money for the purposes of this division.

CHAPTER 880

An act to amend Sections 2892.4 and 2895 of the Business and Professions Code, relating to licensed vocational nurses.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 2892.4 of the Business and Professions Code is amended to read:

2892.4. A license which is not renewed within four years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the license may apply for and obtain a new license if all of the following conditions are met:

(a) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension.

(b) The applicant pays all of the fees that would be required of an applicant for a new license.

(c) The applicant takes and passes the examination which would be required of an applicant for a new license. The examination may be waived in any case in which the applicant establishes to the satisfaction of the board that, with due regard for the public interest, the applicant is qualified to engage in the practice of vocational nursing.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 2. Section 2895 of the Business and Professions Code is amended to read:

2895. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application shall be fixed by the board, with the approval of the director, at not more than fifty dollars ($50).

(b) The fee for any examination after the first shall be fixed by the board, at not more than thirty-five dollars ($35).

(c) The renewal fee shall be fixed by the board, with the approval of the director, at not more than fifty dollars ($50).

(d) Notwithstanding Section 163.5, the delinquency fee for failure to pay the renewal fee within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee but not more than twenty-five dollars ($25).

(e) The initial license fee is an amount equal to the renewal fee in effect on the date the application for the license is filed.

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

CHAPTER 881

An act to amend Section 40002 of, and to add Sections 4766 and 40002.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 4766 is added to the Vehicle Code, to read:

4766. (a) Except as provided in subdivisions (b) and (c), the department shall refuse to renew the registration of any vehicle for which a notice of noncompliance has been transmitted to the department pursuant to subdivision (a) of Section 40002.1 if no certificate of adjudication therefor has been received by the department pursuant to those provisions. The department shall include on each registration card to be issued upon registration renewal, or on an accompanying document, an itemization of offenses for which notices of noncompliance have been received by the department pursuant to subdivision (a) of Section 40002.1, including the jurisdiction that issued the underlying notice pursuant to subdivision (b) of Section 40002 and the administrative service fee for clearing the offense pursuant to subdivision (b) of this section.

(b) Upon application for renewal of vehicle registration for a vehicle subject to subdivision (a), the department shall not refuse registration renewal pursuant to subdivision (a) if the applicant, with respect to each outstanding certificate of noncompliance, (1) provides the department with a certificate of adjudication for the offense issued pursuant to subdivision (a) of Section 40002.1 and (2) pays an administrative service charge, which shall be established by the department to, in the aggregate, defray its costs in administering this section.

(c) Whenever registration of a vehicle subject to subdivision (a) is transferred or not renewed for two renewal periods, the department shall so notify each court which transmitted a notice of noncompliance affecting the vehicle and the department shall not thereafter refuse registration renewal pursuant to subdivision (a).

SEC. 2. Section 40002 of the Vehicle Code is amended to read:

40002. (a) Whenever a written notice to appear has been mailed to an owner of a vehicle or other person referred to in Section 40001, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, is a complaint to which the defendant may plead "guilty."

If, however, the defendant fails to appear in court or does not deposit lawful bail, or pleads other than "guilty" of the offense charged, a complaint shall be filed which shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, and which shall be deemed to be an original complaint, and

thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) A warrant of arrest shall not be issued against an owner of a vehicle or other person referred to in Section 40001 following the filing of a complaint for an offense under that section if the owner or person was not driving the vehicle involved unless the owner or other person is given notice of the offense charged and is informed that unless he or she appears in the court designated in the notice within 10 days after service of the notice and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded or a warrant may be issued against him or her. The notice shall be given as prescribed by Section 22.

SEC. 3. Section 40002.1 is added to the Vehicle Code, to read:

40002.1. (a) Whenever any person has failed to appear in the court designated in the notice specified in subdivision (b) of Section 40002, for a period of 15 or more days following personal service of the notice or deposit in the mail pursuant to Section 22, the magistrate or clerk of the court may give notice of that fact to the department. Except as provided in subdivision (b), the court shall provide this notice of noncompliance to the department within 30 days following expiration of the 15-day period. Whenever thereafter the matter is adjudicated, including a dismissal of the charges upon forfeiture of bail or otherwise, the magistrate or clerk of the court hearing the matter shall immediately (1) endorse a certificate to that effect, (2) provide the person or the person's attorney with a copy of the certificate, and (3) transmit a copy of the certificate to the department.

(b) No notice of noncompliance may be transmitted to the department pursuant to subdivision (a) if a warrant of arrest has been issued on the same offense pursuant to subdivision (b) of Section 40002. No warrant of arrest may be issued pursuant to subdivision (b) of Section 40002 if a notice of noncompliance has been transmitted to the department on the same offense pursuant to this section, except that, when a notice has been received by the court pursuant to subdivision (c) of Section 4766 or recalled by motion of the court, a warrant may then be issued.

SEC. 4. This act shall become operative on July 1, 1985.

CHAPTER 882

An act to add Section 27316.1 to, and to amend Section 27334 of, the Elections Code, relating to elections.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 27316.1 is added to the Elections Code, to read:

27316.1. If a municipal recall election involves the possible recall of a majority of the legislative body, there shall be included with the mailing of the sample ballot a notice informing each voter that if a majority of the legislative body is in fact recalled, a special election shall be held regardless of the results of the vote on the question set forth in Section 27311.

SEC. 2. Section 27334 of the Elections Code is amended to read:

27334. If a majority of the legislative body is recalled at the same election, the members recalled shall retain their offices until their successors are elected and qualified. Immediately after the canvass of votes of a recall election at which a majority of the legislative body is recalled, and regardless of the results of the vote on the question set forth in Section 27311, the clerk shall call a special election to fill the vacancies arising as a result of the recall election, which special election shall be held within 89 days after the canvass of votes of the election at which they were recalled. The duties of the governing body of the city with respect to the holding of such special election shall be performed by the clerk. The vote of the special election shall be canvassed by the clerk, who shall declare the result. If the clerk has also been recalled, then the board of supervisors shall perform the clerk's duties.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

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

CHAPTER 883

An act to amend Section 8150.5 and 8151 of, and to add Section 8152 to, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 8150.5 of the Fish and Game Code is amended to read:

8150.5. Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.

(a) However, loads or lots of fish may contain 15 percent or less by weight of sardines taken incidentally to other fishing operations and which are mixed with the other fish in the load or lot.

(b) Sardines so incidentally taken may be possessed and used for any purpose. However, if 250 tons of sardines are incidentally taken and landed during any calendar year, any additional sardines may be taken and possessed for canning, reduction, or live bait purposes only. The department shall announce, in an expeditious manner likely to inform interested persons, of the time at which the 250 tons of sardines have been incidentally taken and landed.

(c) This section does not prohibit the possession and use of sardines imported into this state under a bill of lading identifying the country of origin.

(d) Imported sardines may be used for dead bait under such regulations as the commission may prescribe.

(e) Subdivision (a) is operative only when Section 8151 is not operative. Subdivisions (b), (c), and (d) are operative and apply regardless of whether subdivision (a) or Section 8151 is operative.

(f) The department shall report to the Legislature on or before January 1, 1986, on the effect of subdivision (b) on the sardine resource, any difficulties encountered by the department in the enforcement of subdivision (b), and whether authorization provided by subdivision (b) ought to be extended. If the department recommends that the authorization provided by subdivision (b) ought to be extended, the report shall also include a determination whether a different level of incidental take would be more appropriate and whether there should be a tolerance for individual fishing operations.

(g) This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1986, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1986, pursuant to Section 9611 of the Government Code, Section 8150.5 of the Fish and Game Code, as amended by Section 1 of Chapter 638 of the Statutes of 1973, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 8151 of the Fish and Game Code is amended to read:

8151. (a) Notwithstanding Section 8150.5, the tolerance for sardines taken incidentally to other fishing operations and mixed

with other fish in a load shall be 25 percent if, using the mackerel fishery as an indicator, the overall percentage of incidentally taken sardines mixed with jack mackerel and Pacific mackerel during the preceding month exceeded 5 percent. Thereafter, the tolerance shall increase by additional 10-percent increments whenever the overall percentage of incidentally taken sardines during the preceding month exceeded one-third of the previously established tolerance. The overall percentage of incidentally taken sardines shall be determined monthly by dividing the weight of sardines taken incidentally with jack mackerel and Pacific mackerel by the weight of all jack mackerel, Pacific mackerel, and sardines landed by the mackerel fishery.

(b) In the event the overall percentage of incidentally taken sardines has been less than one-fourth of the tolerance in effect during the preceding three-month period and the tolerance has not been adjusted during this three-month period, the tolerance for incidentally taken sardines shall be decreased by deducting one 10-percent increment from the tolerance.

(c) Under no circumstances shall the tolerance be higher than 45 percent or less than 15 percent.

(d) The department shall inform the commission of any change in the status of the tolerance for incidentally taken sardines, and the commission shall immediately direct the department to notify commercial fishermen of the status of the tolerance by broadcasting on VHF Channel 16 between 0800 hours and 1000 hours during the first five business days of each calendar month. It shall be the responsibility of commercial fishermen to monitor this radio channel during the specified hours or otherwise to be aware of the status of the tolerance for incidentally taken sardines.

(e) The commission shall hold public hearings to consider the implementation of this section and shall report annually to the Legislature on the status of the sardine resource and may also make recommendations to the Legislature regarding this section or its implementation.

(f) This section shall remain in effect until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1986, deletes or extends that date.

SEC. 3. Section 8152 is added to the Fish and Game Code, to read:

8152. (a) In addition to any other provision of this article, 75 tons of sardines may be taken and possessed for live bait purposes during any calendar year. Sardines may not be taken or possessed for live bait purposes except under a revocable, nontransferable permit issued by the department to a live bait fisherman upon application.

(b) Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The fishery record for each trip shall be completed before any fish is offloaded from the fishing vessel. Fishing records for each month shall be submitted to the department on or before the 10th day of the following month. The department shall keep records of the catch and

when it appears that the 75-ton limit will be reached, it shall notify all permitholders of the date when that limit will be reached and after which no sardines may be taken under this section, and shall notify, by certified mail, all permittees of the closure.

(c) The permit may be revoked or suspended by the commission, when requested by the department, for noncompliance with subdivision (b) or upon a conviction for a violation of this article.

(d) If 75 tons of sardines are taken for live bait purposes under this section, sardines may continue to be taken for live bait purposes, as provided for in Sections 8150.5 and 8151.

(e) This section shall remain in effect until July 1, 1986, and as of that date is repealed, unless a later enacted statute which is enacted before July 1, 1986, deletes or extends that date.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify existing law regarding the possession of sardines for live bait and in order to allow the maximum time for the preparation of a report on the sardine resource, it is necessary that this act take effect immediately.

CHAPTER 884

An act to amend Sections 25851, 25853, 26906.1, 29124, 30200, and 53901 of, to add Section 29130.3 to, and to repeal Section 26911 of, the Government Code, and to amend Sections 2316, 2318, and 6785 of the Health and Safety Code, relating to local agencies.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 25851 of the Government Code is amended to read:

25851. (a) On or before August 10th of each year, the board of supervisors may adopt an ordinance to fix an emergency mosquito abatement standby charge in the county or any portion of the county, whether incorporated or unincorporated.

(b) The ordinance shall establish schedules varying the charges according to land uses, water uses, and degree of hazard. The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) The ordinance shall not apply to any parcel which is subject to an emergency mosquito abatement standby charge ordinance adopted by a mosquito abatement district, vector control district, or pest abatement district, nor shall it apply to any parcel which is owned by a local agency, as defined by Section 2211 of the Revenue and Taxation Code.

SEC. 2. Section 25853 of the Government Code is amended to read:

25853. (a) On or before August 10th of each year, the board of supervisors shall furnish in writing to the county auditor a description of each parcel of land within the county upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the board on each parcel of land.

(b) The board of supervisors, at the time and in the manner required by law for the levying of taxes for county purposes, shall levy the standby charges in the amounts for the respective parcels fixed by the board.

(c) All county officers charged with the duty of collecting taxes shall collect the standby charges with the regular tax payments to the county. The charges shall be paid to the emergency mosquito abatement trust account.

(d) Charges fixed by the board shall be a lien on all the property benefited thereby. Liens for the charges shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

SEC. 3. Section 26906.1 of the Government Code is amended to read:

26906.1. The county auditor, with the approval of the board of supervisors, may impound the disputed revenues of any tax upon secured or unsecured property, levied and collected by the county for the county or any revenue district, whenever, pursuant to Chapter 5 (commencing with Section 5096), Part 9, Division 1 of the Revenue and Taxation Code, a claim or action is filed for the return of the revenues, or the auditor reasonably anticipates that the tax may be refunded in whole or in part. The county auditor shall continue to impound such revenues until the final disposition of the claim or action, or a refund of the tax is no longer anticipated. If, under the final disposition, it is determined that such taxes were properly levied against such property, the auditor shall release the revenues to the county or revenue district.

SEC. 4. Section 26911 of the Government Code is repealed.

SEC. 5. Section 29124 of the Government Code is amended to

read:

29124. If at the beginning of any fiscal year, the appropriations applicable to that year have not been finally determined and adopted, the auditor shall approve payments for the support of the various budget units in accordance with the following authorizations which shall have progressive application:

(a) The several amounts set forth in the proposed budget for the objects and purposes therein specified, except for expenditures for fixed assets and for new permanent employee positions, are deemed appropriated until the adoption of the final budget. For the purposes of this subdivision, the words "new permanent employee positions" do not include any employee position created in lieu of an employee position which is abolished.

(b) If the proposed budget has not been approved by the board, the amounts deemed appropriated shall be based on the budget of the preceding year, excluding fixed assets.

(c) Notwithstanding subdivisions (a) and (b), amounts for the acquisition, construction, or improvement are deemed appropriated based upon the unencumbered balance of appropriations for the same purposes which remained at the end of the preceding year.

SEC. 6. Section 29130.3 is added to the Government Code, to read:

29130.3. Whenever the unreserved/undesignated balance remaining in a fund at the end of a fiscal year exceeds the amount estimated to be available, and budgeted for, in the ensuing fiscal year, the excess may be made available for specific appropriation by a four-fifths vote of the board at any regular meeting, or at any special meeting of which public notice has been given.

SEC. 7. Section 2316 of the Health and Safety Code is amended to read:

2316. (a) On or before August 10th of each year, the district may adopt an ordinance to fix an emergency mosquito abatement standby charge in the district or any portion of the district.

(b) The ordinance shall establish schedules varying the charges according to land uses, water uses, and degree of hazard. The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) Any ordinance to fix an emergency mosquito abatement standby charge shall be adopted pursuant to the provisions of Article 7 (commencing with Section 25120) of Division 2 of Title 3 of the Government Code. The ordinance shall be subject to the provisions of Chapter 4 (commencing with Section 5150) of Division 5 of the Elections Code.

(d) The ordinance shall not apply to any parcel which is owned by a local agency, as defined in Section 2211 of the Revenue and Taxation Code.

SEC. 8. Section 30200 of the Government Code is amended to read:

30200. Under this division, the Controller shall prescribe uniform accounting procedures conforming to generally accepted accounting practices. The procedures shall be adopted under the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 and published in the California Administrative Code either in their entirety or by reference. The Controller shall prescribe such procedures only after consultation with and approval by the Committee on County Accounting Procedures. Approval of such procedures shall be by a majority vote of the members of the committee. The vote may be conducted by mail at the discretion of the chairman of the committee, provided however, that should one or more members of the committee request a meeting for the purpose of voting the chairman shall call a meeting of the committee as provided in Section 30201.

SEC. 9. Section 53901 of the Government Code is amended to read:

53901. Within 60 days after the beginning of its fiscal year, every local agency, including every special purpose assessing or taxing district with the county shall file with the county auditor of the county in which it conducts its principal operations, a copy of its annual budget. The county auditor shall hold on file the annual budget of such special purpose assessing or taxing district or local agency for public inspection at all reasonable hours. If a local agency or special purpose assessing or taxing district does not have a formal budget, it shall file a listing of its anticipated revenues, together with its expenditures and expenses for the fiscal year in progress. The county auditor shall hold on file such statement for public inspection at all reasonable hours.

SEC. 10. Section 2318 of the Health and Safety Code is amended to read:

2318. (a) On or before August 10th of each year, the board of trustees shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the county upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land.

(b) The board of supervisors, at the time and in the manner required by law for the levying of taxes for county purposes, shall levy the standby charges in the amounts for the respective parcels fixed by the board of trustees.

(c) All county officers charged with the duty of collecting taxes shall collect district standby charges with the regular tax payments to the county. The charges shall be paid to the district's emergency mosquito abatement trust fund.

(d) Charges fixed by the district shall be a lien on all the property benefited thereby. Liens for the charges shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

SEC. 11. Section 6785 of the Health and Safety Code is amended to read:

6785. The board shall by September 1st of each year certify to the county auditor of the county in which the district is situated the rate of taxation fixed.

SEC. 12. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 13. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 885

An act to repeal Section 53067 of the Government Code, and to add Section 20103 to the Public Contract Code, relating to public contracts.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 53067 of the Government Code is repealed.

SEC. 2. Section 20103 is added to the Public Contract Code, to read:

20103. Payment on any contract with a local agency for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement, of any kind which will exceed in cost a total of five thousand dollars ($5,000), shall be made as the legislative body prescribes upon estimates made and approved by the legislative body, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the local agency, and unused. The local agency shall withhold not less than 5 percent of the contract price until final completion and acceptance of the project. However, at any time after 50 percent of the work has been completed, if the legislative body finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed.

CHAPTER 886

An act to amend Section 19549.8 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 19549.8 of the Business and Professions Code is amended to read:

19549.8. Notwithstanding Section 19414.5, the board may allocate racing weeks consisting of four or more racing days to an association conducting racing meetings pursuant to Section 19549.1, 19549.6, or 19549.7 if the association and the organization representing the horsemen agree to the allocation.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue to provide horseracing meetings that will maximize revenues to the state, it is necessary that this act take effect immediately.

CHAPTER 887

An act to add Section 25260.4 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1984. Filed with Secretary of State September 5, 1984.]

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

SECTION 1. Section 25260.4 is added to the Vehicle Code, to read:

25260.4. Any hazardous substance spill response vehicle, under contract to the Department of Transportation for the cleanup of hazardous substance spills, may display flashing amber warning lights to the front, sides, or rear of the vehicle while it is engaged in the actual cleanup of the spill. The warning lights shall be removed or covered with opaque material whenever the vehicle is not actually

engaged in the cleanup of a hazardous substance at the scene of the spill.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the safety warning measures authorized by this act may be implemented as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 888

An act to repeal Sections 17921.5 and 17959 of the Health and Safety Code, relating to building standards.

[Approved by Governor September 5, 1984 Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 17921.5 of the Health and Safety Code is repealed.

SEC. 2. Section 17959 of the Health and Safety Code is repealed.

CHAPTER 889

An act to amend Section 2191 of, to repeal Section 2092 of, and to repeal and add Section 2179 of, the Business and Professions Code, and to add Section 44261.5 to the Education Code, relating to nutrition education.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. The Legislature intends that knowledge of nutrition shall be part of the educational preparation of physicians, surgeons, and teachers in California.

SEC. 2. Section 2092 of the Business and Professions Code is repealed.

SEC. 3. Section 2179 of the Business and Professions Code is repealed.

SEC. 4. Section 2179 is added to the Business and Professions Code, to read:

2179. The Division of Licensing shall insure that nutrition is included on the examination for a certificate as a physician and

surgeon.

SEC. 5. Section 2191 of the Business and Professions Code is amended to read:

2191. (a) In determining its continuing education requirements, the Division of Licensing shall consider including a course in human sexuality as defined in Section 2090 and nutrition to be taken by those licensees whose practices may require knowledge in such areas.

(b) The division shall consider including a course in child abuse detection and treatment to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(c) The division shall consider including a course in acupuncture to be taken by those licensees whose practices may require knowledge in the area of acupuncture and whose education has not included instruction in acupuncture.

(d) The Division of Licensing shall encourage every physician and surgeon to take nutrition as part of his or her continuing education, particularly a physician and surgeon involved in primary care.

SEC. 6. Section 44261.5 is added to the Education Code, to read:

44261.5. The minimum requirements for any teaching credential issued after January 1, 1986, shall include nutrition within the existing health education requirement as prescribed by the Commission on Teacher Credentialing.

CHAPTER 890

An act to amend Sections 1799.90, 2954.4, and 2954.5 of the Civil Code, to amend Sections 18212.2, 22005, 22011, 22053, 22053.1, 22054.1, 22451.1, 22452, 22454, 22473, 22482, 24005, 24053, 24053.1, 24055, 24451.3, 24452, 24473, 24482, and 26007.5 of, and to add Sections 22451.3, 22654, 24056, and 26452 to, the Financial Code, relating to loans.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 1799.90 of the Civil Code is amended to read:

1799.90. As used in this title:

(a) "Consumer credit contract" means any of the following obligations to pay money on a deferred payment basis, where the money, property, services or other consideration which is the subject matter of the contract is primarily for personal, family or household purposes:

(1) Retail installment contracts, as defined in Section 1802.6.

(2) Retail installment accounts, as defined in Section 1802.7.

(3) Conditional sales contracts, as defined in Section 2981.

(4) Loans or extensions of credit secured by other than real property, or unsecured, for use primarily for personal, family or household purposes.

(5) Loans or extensions of credit for use primarily for personal, family or household purposes where such loans or extensions of credit are subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part I of Division 4 of the Business and Professions Code, Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), or Division 10 (commencing with Section 24000) of the Financial Code, whether secured by real property or otherwise.

(b) "Creditor" means an individual, partnership, corporation, association or other entity, however designated, who enters into or arranges for consumer credit contracts in the ordinary course of business.

SEC. 2. Section 2954.4 of the Civil Code is amended to read:

2954.4. (a) A charge which may be imposed for late payment of an installment due on a loan secured by a mortgage or a deed of trust on real property containing only a single-family, owner-occupied dwelling, shall not exceed either (1) the equivalent of 6 percent of the installment due that is applicable to payment of principal and interest on the loan, or (2) five dollars ($5), whichever is greater. No charge may be imposed more than once for the late payment of the same installment; provided, however, that the imposition of a late charge on any late payment does not eliminate or supersede late charges imposed on prior late payments. A payment is not a "late payment" for the purposes of this section until at least 10 days following the due date of the installment.

(b) No late charge may be imposed on any installment which is paid or tendered in full on or before its due date, or within 10 days thereafter, even though an earlier installment or installments, or any late charge thereon, may not have been paid in full when due. For the purposes of determining whether late charges may be imposed, any payment tendered by the borrower shall be applied by the lender to the most recent installment due.

(c) A late payment charge described in subdivision (a) is valid if it satisfies the requirements of this section and Section 2954.5.

(d) Nothing in this section shall be construed to alter in any way the duty of the borrower to pay any installment then due or to alter the rights of the lender to enforce the payment of such installments.

(e) This section is not applicable to loans made by a credit union subject to the provisions of Division 5 (commencing with Section 14000) of the Financial Code, by an industrial loan company subject to the provisions of Division 7 (commencing with Section 18000) of the Financial Code, by a personal property broker subject to the provisions of Division 9 (commencing with Section 22000) of the Financial Code, by a consumer finance lender subject to the

provisions of Division 10 (commencing with Section 24000) of the Financial Code, or by a commercial finance lender subject to the provisions of Division 11 (commencing with Section 26000) of the Financial Code, and is not applicable to loans made or negotiated by a real estate broker subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

(f) As used in this section, "single-family, owner-occupied dwelling" means a dwelling which will be owned and occupied by a signatory to the mortgage or deed of trust secured by such dwelling within 90 days of the execution of the mortgage or deed of trust.

(g) This section shall apply to loans executed on and after January 1, 1976.

SEC. 3. Section 2954.5 of the Civil Code is amended to read:

2954.5. (a) Before the first default, delinquency, or late payment charge may be assessed by any lender on a delinquent payment of a loan, other than a loan made pursuant to Division 9 (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000) of the Financial Code, secured by real property, and before the borrower becomes obligated to pay such a charge, the borrower shall either (1) be notified in writing and given at least 10 days from mailing of such notice in which to cure the delinquency, or (2) be informed, by a billing or notice sent for each payment due on the loan, of the date after which such a charge will be assessed.

The notice provided in either paragraph (1) or (2) shall contain the amount of such charge or the method by which it is calculated.

(b) If a subsequent payment becomes delinquent the borrower shall be notified in writing, before the late charge is to be imposed, that the charge will be imposed if payment is not received, or the borrower shall be notified at least semiannually of the total amount of late charges imposed during the period covered by the notice.

(c) Notice provided by this section shall be sent to the address specified by the borrower, or, if no address is specified, to the borrower's address as shown in the lender's records.

(d) In case of multiple borrowers obligated on the same loan, a notice mailed to one shall be deemed to comply with the provisions of this section.

(e) The failure of the lender to comply with the requirements of this section does not excuse or defer the borrower's performance of any obligation incurred in the loan transaction, other than his or her obligation to pay a late payment charge, nor does it impair or defer the right of the lender to enforce any other obligation including the costs and expenses incurred in any enforcement authorized by law.

The provisions of this section as added by Chapter 1430 of the Statutes of 1970 shall only affect loans made on and after January 1, 1971.

The amendments to this section made at the 1975–76 Regular Session of the Legislature shall only apply to loans executed on and

after January 1, 1976.

SEC. 4. Section 18212.2 of the Financial Code is amended to read:

18212.2. In addition to the charges authorized by Section 18212 or 18212.1 an industrial loan company may contract for and receive an administrative fee, which shall be fully earned immediately upon making the loan, with respect to a loan of a principal amount of not more than two thousand five hundred dollars ($2,500) at a rate not in excess of 5 percent of the principal amount or fifty dollars ($50), whichever is lesser. No administrative fee may be contracted for or received in connection with refinancing a loan unless at least one year has elapsed since receipt of a previous administrative fee paid by the borrower.

SEC. 5. Section 22005 of the Financial Code is amended to read:

22005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 22458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

SEC. 6. Section 22011 of the Financial Code is amended to read:

22011. "Commercial loan" means a loan, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes.

For purposes of determining whether a loan is or is not a commercial loan, the lender may rely on any written statement of intended purposes signed by the borrower. The statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

SEC. 7. Section 22053 of the Financial Code is amended to read:

22053. The following sections do not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale, or to a duly licensed personal property broker in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22404 and 22405, subdivisions (h), (*l*), (n), and (o) of Section 22452, Sections 22454, 22456, 22457, 22458, 22458.1, 22458.2, 22458.3, 22458.4, 22458.5, 22461, 22467, 22468, 22469, 22470, 22472, 22473, 22474, and 22652, and the sections enumerated in Section 22053.1.

SEC. 8. Section 22053.1 of the Financial Code is amended to read:

22053.1. The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to a duly licensed personal property broker in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22004, 22005, 22450, 22451, and 22451.1, subdivisions (b), (c), (d), (e), (f), (j), (k), and (m) of Section 22452, Section 22453, subdivision (a) of Section 22454, and Sections 22455, 22459, 22460, 22462, 22463, 22464, 22480, and 22651.

SEC. 9. Section 22054.1 of the Financial Code is amended to read:

22054.1. In determining under Section 22053 or 22053.1 whether a loan is a loan of a bona fide principal amount of five thousand dollars ($5,000) or more and whether the provisions of either section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than five thousand dollars ($5,000), and a loan to that borrower of a principal amount of five thousand dollars ($5,000) or more is made by a licensed personal property broker, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than five thousand dollars ($5,000) within a short time after the making of the loan other than by reason of the requirement that the loan be paid in substantially equal periodic installments, then the loan shall not be deemed to be a commercial loan or a noncommercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more and the provisions of Section 22053 or 22053.1, respectively, shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to commercial or noncommercial loans of less than five thousand dollars ($5,000).

(b) A subsequent advance of money of less than five thousand dollars ($5,000) pursuant to a revolving or open end loan agreement

or similar agreement between a borrower and a licensee which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw all or any part of the total amount, shall be deemed to be a commercial or noncommercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more if the line of credit or the aggregate maximum amount is five thousand dollars ($5,000) or more and the initial advance was five thousand dollars ($5,000) or more even though the actual unpaid balance after the advance or at any other time is less than five thousand dollars ($5,000).

(c) If a loan made by a licensee is in a principal amount of five thousand dollars ($5,000) or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods or instruments or a lease of goods or in the form of an advance on the purchase price of any of the foregoing shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of Section 22053 or 22053.1 are used for the purpose of evading this division.

SEC. 10. Section 22451.1 of the Financial Code is amended to read:

22451.1. As an alternative to the charges authorized by Section 22451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of this rate as shall be determined by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

SEC. 11. Section 22451.3 is added to the Financial Code, to read:

22451.3. In addition to the charges authorized by Section 22451 or 22451.1, a licensee may contract for and receive an administrative fee, which shall be fully earned immediately upon making the loan, with respect to a loan of a principal amount of not more than two thousand five hundred dollars ($2,500) at a rate not in excess of 5 percent of the principal amount or fifty dollars ($50), whichever is lesser. No administrative fee may be contracted for or received in connection with the refinancing of a loan unless at least one year has elapsed since the receipt of a previous administrative fee paid by the borrower. Only one administrative fee may be contracted for or

received until the loan has been repaid in full.

SEC. 12. Section 22452 of the Financial Code is amended to read:

22452. (a) As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this section and pursuant to which:

(1) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time.

(b) Subject to the written approval of the commissioner of the licensee's plan of business for making open end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open end loans under Section 22400, a licensee may make open end loans pursuant to this section and may contract for and receive thereon charges as set forth in Sections 22451, 22451.1, and 22454.1. These charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

(c) The minimum monthly payment shall be determined by either of the following:

(1) The amount calculated by multiplying the unpaid principal balance after an advance and including the advance by a percent agreed upon by the borrower and the licensee, which shall be no less than 2½ percent. The minimum payment shall continue at the amount determined pursuant to this paragraph until a subsequent loan advance is made.

(2) The amount calculated by multiplying the unpaid balance at the end of each billing cycle by a percent agreed upon by the borrower and the licensee, which shall be no less than 5 percent.

(d) On open end loans the licensee may contract for and receive the fees, costs, and expenses permitted on other loans, including those permitted by subdivisions (a), (b), (c), and (d) of Section 22458 and subdivision (d) of Section 22458.1, except that the charge for credit life insurance under Section 22458.1 shall be on a monthly basis and shall be actuarially consistent with the single premium rate for the same coverage approved or fixed by the Insurance Commissioner under Section 22458.1, or in accordance with a schedule of monthly rates filed with and not disapproved by the Insurance Commissioner.

(e) A licensee may not take real property as security, in whole or in part, for an open end loan under this section.

(f) Section 22455 shall apply to open end loans with the following variations:

(1) To comply with Section 22455, in the case of open end loan advances directly to the borrower, the licensee shall deliver to or at the direction of the borrower at the time of each loan advance an amount equal to the face value of the advance.

(2) To comply with Section 22455, in the case of an open end loan advance in the form of a payment by the licensee to a person from whom a borrower obtained money, goods, labor, or services, the licensee shall deliver to such person such amounts, at such times, as to fulfill the obligation to such person under the transaction.

(g) If an open end credit program is not primarily for the purpose of purchasing or leasing goods or services from the licensee, then all credit extended through use of the program, including transactions that involve the purchase or lease of goods or services from the licensee, shall be subject to this division.

(h) In lieu of subdivision (a) of Section 22458.1, Section 22468, and subdivision (a) of Section 22473, the following provisions shall apply to open end loans:

(1) A licensee may provide insurance on the life of one or more borrowers, with his or her consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. If life insurance is provided, and if the insured dies when there is an outstanding open end loan indebtedness, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death without any exception, reservation or limitation. Any life insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit life insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force

during that period, which amounts may be debited to the borrower's account.

(2) The open end loan agreement shall contain the name, address, and license number of the personal property broker and shall disclose the nature of the security taken, the method of determining the minimum payments which will be required to repay the initial advance and any subsequent advances on the loan, and the agreed rate of charge.

(3) Except in the case of an account which the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.), the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(i) Subdivision (a) of Section 22401, Sections 22404, 22462, and subdivision (b) of Section 22473 shall not apply to a licensee with respect to advances made through an open end credit program.

(j) Section 22480 shall not apply to open end loans.

(k) Nothing in this section may be construed to limit the authority of the commissioner to disapprove advertising with respect to open end loans pursuant to Section 22414.

(*l*) The payment of fees for participation in an open end credit program, the acceptance by a borrower of the form of the licensee's program and the borrower's agreement to the licensee's program shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 22004, 22456, or 22457.

(m) This section shall not apply to loans other than open end loans.

(n) Section 22469 shall not apply to a change in terms of an open end loan if notice is given to the borrower in accordance with Section 226.9(c) of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.).

(o) Subdivision (e) of Section 22473 shall not apply to an open end loan with respect to which there is no balance outstanding if the open

end loan agreement continues in effect.

SEC. 13. Section 22454 of the Financial Code is amended to read:

22454. (a) Except as provided in Section 22451.3 and in Article 3 (commencing with Section 22480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than 1 month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate degree.

(c) This section shall not apply to open end loans.

SEC. 14. Section 22473 of the Financial Code is amended to read:

22473. Each licensed personal property broker shall:

(a) Deliver or cause to be delivered to the borrower, or any one thereof, at the time the loan is made, a statement showing in clear and distinct terms the name, address, and license number of the personal property broker and the broker, if any. The statement shall show the date, amount, and maturity of the loan contract, how and when repayable, the nature of the security for the loan, and the agreed rate of charge or the annual percentage rate pursuant to Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.).

(b) Obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan. If the statement discloses that a broker or other person has participated, then the personal property broker shall obtain a full statement of all sums paid or payable to the broker or other person. The personal property broker shall keep these statements for a period of two years from and after the date the loan has been paid in full, or has matured according to its terms, or has been charged off.

(c) Permit payment to be made in advance in any amount on any contract of loan at any time. The licensee may apply the payment first to any agreed prepayment penalty, then to all charges due, including charges at the agreed rate or rates up to the date of payment, not to exceed the applicable maximum rate permitted by this article.

(d) Deliver or cause to be delivered to the person making any cash payment, or to the person who requests a receipt at the time of making any payment, at the time payment is made on account of any loan, a plain and complete receipt showing the total amount

received, and identifying the loan contract upon which the payment is applied.

(e) Upon repayment of any loan in full, release all security for the loan, endorse and return any certificate of ownership, cancel or plainly mark "paid" and return to the borrower or person making final payment, any note, mortgage, security agreement, trust deed, assignment, or order signed by the borrower, except such as are a part of the court record in any action, or such as have been delivered to a third person for the purpose of carrying out their terms, or a security agreement which secures any other indebtedness of a borrower to the licensee. When a trust deed on real property has been taken, as security for a loan that has been subsequently paid in full, a duly executed request for reconveyance shall be delivered to the trustor or trustee for the purpose of recording a reconveyance. A termination statement, furnished to the borrower as provided for in Section 9404 of the Commercial Code, shall be deemed a release of the security when a financing statement has been filed pursuant to Section 9401 of the Commercial Code.

SEC. 15. Section 22482 of the Financial Code is amended to read:

22482. When charges on a noncommercial loan of an original bona fide principal amount of five thousand dollars ($5,000) or more have been precomputed in a manner similar to that provided in Section 22480, and the loan is prepaid in full by cash, a new loan, refinancing or otherwise, or the maturity of the loan contract is accelerated for any reason, the borrower shall receive a rebate or credit of that portion of the precomputed charge which is the difference between the total precomputed charge and the charges at the contract rate computed in accordance with the provisions of Section 22454 or 22454.1, or on the basis of 12 equal months of 30 days each, on the assumption that all payments were received by the licensee on their respective due dates. This section does not apply to charges paid by the borrower to the lender or others, such as charges computed as a percentage of the loan, which are fully earned upon making the loan, or to charges agreed to be paid by the borrower upon prepayment of a loan secured by a lien upon real property. This section does not apply to a commercial loan as defined in Section 22011.

SEC. 16. Section 22654 is added to the Financial Code, to read:

22654. No provision imposing liability under this division, including the provisions of subdivision (a) of Section 22651 and subdivision (a) of Section 22652, shall apply to any act done or omitted in good faith in conformity with any written general rule, regulation, or specific ruling of the commissioner, notwithstanding that after the act or omission has occurred, the written general rule, regulation, or specific ruling is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

SEC. 17. Section 24005 of the Financial Code is amended to read:

24005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker

in connection with insurance written as provided in Section 24458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

SEC. 18. Section 24053 of the Financial Code is amended to read:

24053. The following sections do not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 24404 and 24405, paragraph (1) of subdivision (h) of Section 24452, Sections 24454, 24458, 24458.1, 24458.2, 24470, and 24652, and the sections enumerated in Section 24053.1.

SEC. 19. Section 24053.1 of the Financial Code is amended to read:

24053.1. The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 24004, 24005, 24450, 24451, and 24451.1, subdivisions (b), (c), (d), (e), (f), (j), (k), and (m) of Section 24452, Section 24453, subdivision (a) of Section 24454, and Sections 24455, 24459, 24460, 24462, 24463, 24464, 24480, and 24651.

SEC. 20. Section 24055 of the Financial Code is amended to read:

24055. This division does not apply to any loans made or arranged by any person licensed as a real estate broker by the State of California and secured by liens on real property, or to any licensed real estate broker when making those loans. A licensed real estate broker may make a loan secured by a lien on real property for sale to a consumer finance lender or arrange for a loan secured by a lien

on real property to be made by a consumer finance lender without obtaining a license under this division.

SEC. 21. Section 24056 is added to the Financial Code, to read:

24056. A license as a broker under this division does not authorize the licensee to negotiate or perform any act as a broker in connection with loans made or to be made by a lender not licensed as a consumer finance lender under this division.

SEC. 22. Section 24451.3 of the Financial Code is amended to read:

24451.3. In addition to the charges authorized by Section 24451 or 24451.1 a licensee may contract for and receive an administrative fee, which shall be fully earned immediately upon making the loan, with respect to a loan of a principal amount of not more than two thousand five hundred dollars ($2,500) at a rate not in excess of 5 percent of the principal amount or fifty dollars ($50), whichever is lesser. No administrative fee may be contracted for or received in connection with refinancing a loan unless at least one year has elapsed since the receipt of a previous administrative fee paid by the borrower. Only one administrative fee may be contracted for or received until the loan has been repaid in full.

SEC. 23. Section 24452 of the Financial Code is amended to read:

24452. (a) As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this section and pursuant to which:

(1) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time.

(b) Subject to the written approval of the commissioner of the licensee's plan of business for making open end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open end loans under Section 24400, a licensee may make open end loans pursuant to this section and may contract for and receive thereon charges as set forth in Sections 24451, 24451.1, and 24454.1. These charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the

unpaid balance is outstanding.

(2) The average daily unpaid balance of the open end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to any balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from the regular date.

(c) The minimum monthly payment shall be determined by either of the following:

(1) The amount calculated by multiplying the unpaid principal balance after an advance and including the advance by a percent agreed upon by the borrower and the licensee, which shall be no less than 2½ percent. The minimum payment shall continue at the amount determined pursuant to this paragraph until a subsequent loan advance is made.

(2) The amount calculated by multiplying the unpaid balance at the end of each billing cycle by a percent agreed upon by the borrower and the licensee, which shall be no less than 5 percent.

(d) On open end loans the licensee may contract for and receive the fees, costs, and expenses permitted on other loans, including those permitted by subdivisions (a), (b), (c), and (d) of Section 24458 and subdivision (d) of Section 24458.1, except that the charge for credit life insurance under Section 24458.1 shall be on a monthly basis and shall be actuarially consistent with the single premium rate for the same coverage approved or fixed by the Insurance Commissioner under Section 24458.1, or in accordance with a schedule of monthly rates filed with and not disapproved by the Insurance Commissioner.

(e) A licensee may not take real property as security, in whole or in part, for an open end loan under this section.

(f) Section 24455 shall apply to open end loans with the following variations:

(1) To comply with Section 24455, in the case of open end loan advances directly to the borrower, the licensee shall deliver to or at the direction of the borrower at the time of each loan advance an amount equal to the face value of the advance.

(2) To comply with Section 24455, in the case of an open end loan advance in the form of a payment by the licensee to a person from whom a borrower obtained money, goods, labor or services, the licensee shall deliver to such person such amounts, at such times, as to fulfill the obligation to such person under the transaction.

(g) If an open end credit program is not primarily for the purpose of purchasing or leasing goods or services from the licensee, then all credit extended through use of the program, including transactions that involve the purchase or lease of goods or services from the

licensee, shall be subject to this division.

(h) In lieu of subdivision (a) of Section 24458.1, Section 24468, and subdivision (a) of Section 24473, the following provisions shall apply to open end loans:

(1) A licensee may provide insurance on the life of one or more borrowers, with his or her consent, the form to be approved by the Insurance Commissioner, and in an amount not in excess of the amount of the indebtedness. If life insurance is provided, and if the insured dies when there is an outstanding open end loan indebtedness, the insurance shall be sufficient to pay the total amount due on the loan outstanding on the date of his or her death without any exception, reservation or limitation. Any life insurance as is provided shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later. No credit life insurance written in connection with an open end loan shall be canceled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of the payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(2) The open end loan agreement shall contain the name, address, and license number of the consumer finance lender and shall disclose the nature of the security taken, if any, the method of determining the minimum payments which will be required to repay the initial advance and any subsequent advances on the loan, and the agreed rate of charge.

(3) Except in the case of an account which the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.), the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(i) Subdivision (a) of Section 24401, Sections 24404, 24462, and

subdivision (b) of Section 24473 shall not apply to a licensee with respect to advances made through an open end credit program.

(j) Section 24480 shall not apply to open end loans.

(k) Nothing in this section may be construed to limit the authority of the commissioner to disapprove advertising with respect to open end loans pursuant to Section 24414.

(*l*) The payment of fees for participation in an open end credit program, the acceptance by a borrower of the form of the licensee's program and the borrower's agreement to the licensee's program shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 24004, 24456 or 24457.

(m) This section shall not apply to loans other than open end loans.

(n) Section 24469 shall not apply to a change in terms of an open end loan if notice is given to the borrower in accordance with subsection (c) of Section 226.9 of Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.).

(o) Subdivision (e) of Section 24473 shall not apply to an open end loan with respect to which there is no balance outstanding if the open end loan agreement continues in effect.

SEC. 24. Section 24473 of the Financial Code is amended to read:

24473. Each licensed consumer finance lender shall:

(a) Deliver or cause to be delivered to the borrower, or any one thereof, at the time the loan is made, a statement showing in clear and distinct terms the name, address, and license number of the consumer finance lender and the broker, if any. The statement shall show the date, amount, and maturity of the loan contract, how and when repayable, the nature of the security for the loan, if any, and the agreed rate or rates of charge or the annual percentage rate pursuant to Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226.1 et seq.).

(b) Obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan. If the statement discloses that a broker or other person has participated, then the consumer finance lender shall obtain a full statement of all sums paid or payable to the broker or other person. The consumer finance lender shall keep these statements for a period of two years from and after the date the loan has been paid in full, or has matured according to its terms, or has been charged off.

(c) Permit payment to be made in advance in any amount on any contract of loan at any time. The licensee may apply the payment first to any agreed prepayment penalty, then to all charges due, including charges at the agreed rate or rates up to the date of payment, not to exceed the applicable maximum rate permitted by this article.

(d) Deliver or cause to be delivered to the person making any cash payment, or to the person who requests a receipt at the time of

making any payment, at the time payment is made on account of any loan, a plain and complete receipt showing the total amount received, and identifying the loan contract upon which the payment is applied.

(e) Upon repayment of any loan in full, release all security for the loan, endorse and return any certificate of ownership, cancel or plainly mark "paid" and return to the borrower or person making final payment, any note, mortgage, security agreement, trust deed, assignment, or order signed by the borrower, except such as are a part of the court record in any action, or such as have been delivered to a third person for the purpose of carrying out their terms, or a security agreement which secures any other indebtedness of a borrower to the licensee. When a trust deed on real property has been taken, as security for a loan that has been subsequently paid in full, a duly executed request for reconveyance shall be delivered to the trustor or trustee for the purpose of recording a reconveyance. A termination statement, furnished to the borrower as provided for in Section 9404 of the Commercial Code, shall be deemed a release of the security when a financing statement has been filed pursuant to Section 9401 of the Commercial Code.

SEC. 25. Section 24482 of the Financial Code is amended to read:

24482. When charges on a loan of an original bona fide principal amount of five thousand dollars ($5,000) or more have been precomputed in a manner similar to that provided in Section 24480, and the loan is prepaid in full by cash, a new loan, refinancing or otherwise, or the maturity of the loan contract is accelerated for any reason, the borrower shall receive a rebate or credit of that portion of the precomputed charge which is the difference between the total precomputed charge and the charges at the contract rate computed in accordance with the provisions of Section 24454 or 24454.1, or on the basis of 12 equal months of 30 days each, on the assumption that all payments were received by the licensee on their respective due dates. This section does not apply to charges paid by the borrower to the lender or others, such as charges computed as a percentage of the loan, which are fully earned upon making the loan, or to charges agreed to be paid by the borrower upon prepayment of a loan secured by a lien upon real property.

SEC. 26. Section 26007.5 of the Financial Code is amended to read:

26007.5. "Commercial loan" means a loan of a principal amount of five thousand dollars ($5,000) or more, or any loan under an open end credit program, whether secured by real or personal property, or unsecured, the proceeds of which are intended by the borrower for use primarily for other than personal, family, or household purposes.

For purposes of determining whether a loan is a commercial loan, the lender may rely on any written statement of intended purposes signed by the borrower. The statement may be a separate statement signed by the borrower or may be contained in a loan application or

other document signed by the borrower. The lender shall not be required to ascertain that the proceeds of the loan are used in accordance with the statement of intended purposes.

SEC. 27. Section 26452 is added to the Financial Code, to read:

26452. As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to the section and pursuant to which:

(a) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full at any time.

CHAPTER 891

An act to amend Section 25210.4a of, and to add Section 25210.4e to, the Government Code, relating to counties.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 25210.4a of the Government Code is amended to read:

25210.4a. The term "miscellaneous extended services" as used in this chapter shall include, but shall not be limited to, the following:

(1) Water service including the acquisition, construction, operation, replacement, maintenance and repair of water supply and distribution systems, including land, easements and rights-of-way and water rights.

(2) Sewer service, including the acquisition, construction, operation, replacement, maintenance and repair of sewage collection, transportation and disposal systems, including land, easements and rights-of-way.

(3) Pest or rodent control.

(4) Street and highway sweeping.

(5) Street and highway lighting including the acquisition, construction, replacement, maintenance and repair of a street or

highway lighting system, including land, easements and rights-of-way.

(6) Refuse collection.

(7) Garbage collection.

(8) Ambulance service.

(9) Area planning by an area planning commission established pursuant to Article 11 (commencing with Section 65600) of Chapter 3 of Title 7.

(10) Soil conservation and drainage control.

(11) Animal control.

(12) Services provided by a municipal advisory council established pursuant to Section 31010.

(13) Transportation services.

(14) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to do so. "Geologic hazard," for purposes of this subdivision, means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

(15) Road maintenance. Street, highway, and bridge construction, improvement and maintenance, including related drainage facilities and structures, necessary design and engineering services and the acquisition of land, easements, and rights-of-way needed for the work. The provisions of Article 3.5 (commencing with Section 20120) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code are applicable to the furnishing of extended services pursuant to this paragraph.

SEC. 2. Section 25210.4e is added to the Government Code, to read:

25210.4e. In Lassen County, a county service area, in addition to other services which it is empowered to provide, may purchase electrical energy generated within the boundaries of the county, and enter into contracts for the sale of such energy at wholesale rates to any public agency or public utility engaged in the sale or use of electrical energy.

SEC. 3. The Legislature finds and declares that for the purpose of Section 2 of this act, a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and that a special act is necessary in order to address a unique local situation by providing an alternative institutional arrangement for electrical energy use in Lassen County, due to the remote location, high energy costs, and availability of renewable energy sources within the county.

CHAPTER 892

An act to amend Sections 226.12 and 5103 of the Civil Code, to amend Section 709.010 of the Code of Civil Procedure, to amend Sections 26, 54, 82, 140, 142, 143, 144, 146, 147, 150, 224, 240, 282, 372.5, 736, 6112, 6122, 6140, 6142, 6143, 6144, 6146, 6147, 6152, 6165, 6205, 6226, 6247, 6248, 6300, 6401, 6402, 6408, 6408.5, 6409, 6412, 6560, 6562, and 6573 of, to add Sections 59, 105, 207, 225, 226, 241, 257, 647.5, 649.6, 658, 665, 1055, 6103, 6153, 6330, 6390, and 64614 to, and Article 3 (commencing with Section 6580) to Chapter 5 of Part 3 of Division 6 of, to repeal Section 3 of, and to repeal and add Section 6206 of, the Probate Code, relating to civil law.

[Approved by Governor September 5, 1984 Filed with Secretary of State September 6, 1984]

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

SECTION 1. Section 226.12 of the Civil Code is amended to read:

226.12. In the case of a stepparent adoption, the form prescribed by the State Department of Social Services for the consent of the natural parent shall contain substantially the following notice: "Notice to the natural parent who relinquishes the child for adoption: If you and your child lived together at any time as parent and child, the adoption of your child by a stepparent does not affect the child's right to inherit your property or the property of other blood relatives."

SEC. 2. Section 5103 of the Civil Code is amended to read:

5103. (a) Subject to subdivision (b), either husband or wife may enter into any transaction with the other, or with any other person, respecting property, which either might if unmarried.

(b) Except as provided in Sections 143, 144, and 146 of the Probate Code, in transactions between themselves, a husband and wife are subject to the general rules which control the actions of persons occupying confidential relations with each other, as defined by Title 8 (commencing with Section 2215) of Part 4 of Division 3.

SEC. 2.5. Section 709.010 of the Code of Civil Procedure is amended to read:

709.010. (a) As used in this section, "trust" has the meaning provided in Section 1138 of the Probate Code but includes a trust subject to court supervision under Article 1 (commencing with Section 1120) of Chapter 19 of Division 3 of the Probate Code.

(b) The judgment debtor's interest as a beneficiary of a trust is subject to enforcement of a money judgment only upon petition under this section by a judgment creditor to a court prescribed in Chapter 19 (commencing with Section 1120) of Division 3 of the Probate Code (administration of trusts). The judgment debtor's interest in the trust may be applied to the satisfaction of the money judgment by such means as the court, in its discretion, determines

are proper, including but not limited to imposition of a lien on or sale of the judgment debtor's interest, collection of trust income, and liquidation and transfer of trust assets by the trustee.

(c) Upon petition of the judgment creditor under this section, the court may make an order that the trustee withhold and pay to the judgment creditor all or a portion of the amount that otherwise would be paid periodically to the judgment debtor from the trust. Unless the order otherwise provides, the order shall continue in effect until the judgment of the judgment creditor is satisfied or the order is modified or terminated. In the case of periodic payments from a spendthrift or support trust, the order may not require that the trustee pay to the judgment creditor any exempt portion of the amount that otherwise would be paid periodically to the judgment debtor from the trust; and, for this purpose, the exempt portion is the amount that the court determines is substantially equivalent to the amount that would be exempt on a like amount of earnings under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law), including, but not limited to, amounts determined under Sections 706.050, 706.051, and 706.052. Nothing in this subdivision limits the right of the state or other public entity to recover for support provided to a trust beneficiary or to recover for payments made for the support of a trust beneficiary.

(d) Except to the extent that the court order otherwise specifically provides, the provisions of any order entered under subdivision (c) shall not become effective until 30 days after the order has been served upon the trustee, except that the trustee may waive all or any portion of the 30-day period. The trustee may file with the court that made the order a petition requesting modification or clarification of any of the provisions of the order. Notwithstanding any contrary provision of law, the trustee is not required to pay any fee to the clerk of the court as a condition to filing a petition under this subdivision or any subsequent document in connection with a petition. If any provision of the order is modified or set aside, the court, on motion of the judgment creditor or judgment debtor, may set aside or modify other provisions of the order. The trustee, the judgment creditor, and the judgment debtor may present evidence or further evidence that is relevant to the issues to be decided by the court at any hearing on the trustee's petition. The court shall take this evidence into account in determining those issues. Nothing in this subdivision limits any right of a trustee to petition a court under Chapter 19 (commencing with Section 1120) of Division 3 of the Probate Code.

(e) Where the trust gives the trustee discretion over the payment of either principal or income of a trust, or both, nothing in this section affects or limits that discretion or requires the exercise of that discretion in any particular manner. The trustee has no duty to oppose a petition under this section or to make any claim for exemption on behalf of the trust beneficiary. The trustee is not liable for any action taken, or omitted to be taken, in compliance with any

court order made under this section.

(f) Except as provided in subdivisions (c), (d), and (e), nothing in this section affects the law relating to enforcement of a money judgment against the judgment debtor's interest in a spendthrift trust, but surplus amounts from a spendthrift trust liable pursuant to Section 859 of the Civil Code are subject to enforcement of a money judgment under this section.

SEC. 3. Section 3 of the Probate Code is repealed.

SEC. 4. Section 26 of the Probate Code is amended to read:

26. "Child" includes any individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved.

SEC. 5. Section 54 of the Probate Code is amended to read:

54. "Parent" includes any individual entitled to take as a parent under this code by intestate succession from the child whose relationship is involved.

SEC. 6. Section 59 is added to the Probate Code, to read:

59. "Predeceased spouse" means a person who died before the decedent while married to the decedent, except that the term does not include any of the following:

(a) A person who obtains or consents to a final decree or judgment of dissolution of marriage from the decedent or a final decree or judgment of annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless they (1) subsequently participate in a marriage ceremony purporting to marry each to the other or (2) subsequently live together as husband and wife.

(b) A person who, following a decree or judgment of dissolution or annulment of marriage obtained by the decedent, participates in a marriage ceremony to a third person.

(c) A person who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

SEC. 7. Section 82 of the Probate Code is amended to read:

82. "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, conservatorships, personal representatives, Totten trust accounts, custodial arrangements pursuant to the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any state, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

SEC. 7.5. Section 105 is added to the Probate Code, to read:

105. This part applies only where the decedent died on or after January 1, 1985, and the law applicable prior to January 1, 1985,

continues to apply where the decedent died before January 1, 1985.

SEC. 8. Section 140 of the Probate Code is amended to read:

140. As used in this chapter, "waiver" means a waiver by the surviving spouse of any of the rights listed in subdivision (a) of Section 141, whether signed before or during marriage.

SEC. 9. Section 142 of the Probate Code is amended to read:

142. (a) A waiver under this chapter shall be in writing and shall be signed by the surviving spouse.

(b) Subject to subdivision (c), a waiver under this chapter is enforceable only if it satisfies the requirements of subdivision (a) and is enforceable under either Section 143 or Section 144.

(c) Enforcement of the waiver against the surviving spouse is subject to the same defenses as enforcement of a contract, except that:

(1) Lack of consideration is not a defense to enforcement of the waiver.

(2) A minor intending to marry may make a waiver under this chapter as if married, but the waiver becomes effective only upon the marriage.

SEC. 10. Section 143 of the Probate Code is amended to read:

143. (a) Subject to Section 142, a waiver is enforceable under this section unless the surviving spouse proves either of the following:

(1) A fair and reasonable disclosure of the property or financial obligations of the decedent was not provided to the surviving spouse prior to the signing of the waiver unless the surviving spouse waived such a fair and reasonable disclosure after advice by independent legal counsel.

(2) The surviving spouse was not represented by independent legal counsel at the time of signing of the waiver.

(b) Subdivision (b) of Section 5103 of the Civil Code does not apply if the waiver is enforceable under this section.

SEC. 11. Section 144 of the Probate Code is amended to read:

144. (a) Except as provided in subdivision (b), subject to Section 142, a waiver is enforceable under this section if the court determines either of the following:

(1) The waiver at the time of signing made a fair and reasonable disposition of the rights of the surviving spouse.

(2) The surviving spouse had, or reasonably should have had, an adequate knowledge of the property and financial obligations of the decedent and the decedent did not violate the duty imposed by subdivision (b) of Section 5103 of the Civil Code.

(b) If, after considering all relevant facts and circumstances, the court finds that enforcement of the waiver pursuant to subdivision (a) would be unconscionable under the circumstances existing at the time enforcement is sought, the court may refuse to enforce the waiver, enforce the remainder of the waiver without the unconscionable provisions, or limit the application of the unconscionable provisions to avoid an unconscionable result.

(c) Except as provided in paragraph (2) of subdivision (a),

subdivision (b) of Section 5103 of the Civil Code does not apply if the waiver is enforceable under this section.

SEC. 12. Section 146 of the Probate Code is amended to read:

146. (a) As used in this section, "agreement" means a written agreement signed by each spouse or prospective spouse altering, amending, or revoking a waiver under this chapter.

(b) Except as provided in subdivisions (c) and (d) of Section 147, unless the waiver specifically otherwise provides, a waiver under this chapter may not be altered, amended, or revoked except by a subsequent written agreement signed by each spouse or prospective spouse.

(c) Subject to subdivision (d), the agreement is enforceable only if it satisfies the requirements of subdivision (b) and is enforceable under either subdivision (e) or subdivision (f).

(d) Enforcement of the agreement against a party to the agreement is subject to the same defenses as enforcement of any other contract, except that:

(1) Lack of consideration is not a defense to enforcement of the agreement.

(2) A minor intending to marry may enter into the agreement as if married, but the agreement becomes effective only upon the marriage.

(e) Subject to subdivision (d), an agreement is enforceable under this subdivision unless the party to the agreement against whom enforcement is sought proves either of the following:

(1) A fair and reasonable disclosure of the property or financial obligations of the other spouse was not provided to the spouse against whom enforcement is sought prior to the signing of the agreement unless the spouse against whom enforcement is sought waived such a fair and reasonable disclosure after advice by independent legal counsel.

(2) The spouse against whom enforcement is sought was not represented by independent legal counsel at the time of signing of the agreement.

(f) Subject to subdivisions (d) and (g), an agreement is enforceable under this subdivision if the court determines that the agreement at the time of signing made a fair and reasonable disposition of the rights of the spouses.

(g) If, after considering all relevant facts and circumstances, the court finds that enforcement of the agreement pursuant to subdivision (f) would be unconscionable under the circumstances existing at the time enforcement is sought, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provisions, or limit the application of the unconscionable provisions to avoid an unconscionable result.

(h) Subdivision (b) of Section 5103 of the Civil Code does not apply if the agreement is enforceable under this section.

SEC. 13. Section 147 of the Probate Code is amended to read:

147. (a) Subject to subdivisions (c) and (d), a waiver,

agreement, or property settlement made after December 31, 1984, is invalid insofar as it affects the rights listed in subdivision (a) of Section 141 unless it satisfies the requirements of this chapter.

(b) Nothing in this chapter affects the validity or effect of any waiver, agreement, or property settlement made prior to January 1, 1985, and the validity and effect of such waiver, agreement, or property settlement shall continue to be determined by the law applicable to the waiver, agreement, or settlement prior to January 1, 1985.

(c) Nothing in this chapter affects the validity or effect of any premarital property agreement, whether made prior to, on, or after January 1, 1985, insofar as the premarital property agreement affects the rights listed in subdivision (a) of Section 141, and the validity and effect of such premarital property agreement shall be determined by the law otherwise applicable to the premarital property agreement. Nothing in this subdivision limits the enforceability under this chapter of a waiver made under this chapter by a person intending to marry that is otherwise enforceable under this chapter.

(d) Nothing in this chapter limits any right one spouse otherwise has to revoke a consent or election to disposition of his or her half of the community or quasi-community property under the will of the other spouse.

SEC. 14. Section 150 of the Probate Code is amended to read:

150. (a) A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if made after December 31, 1984, can be established only by one of the following:

(1) Provisions of a will stating material provisions of the contract.

(2) An express reference in a will to a contract and extrinsic evidence proving the terms of the contract.

(3) A writing signed by the decedent evidencing the contract.

(b) The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

(c) A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if made on or before December 31, 1984, can be established only under the law applicable to the contract on December 31, 1984.

SEC. 14.7. Section 207 is added to the Probate Code, to read:

207. This part applies only where the decedent was killed on or after January 1, 1985, and the law applicable prior to January 1, 1985, continues to apply where the decendent was killed before January 1, 1985.

SEC. 15. Section 224 of the Probate Code is amended to read:

224. If the insured and a beneficiary under a policy of life or accident insurance have died and it cannot be established by clear and convincing evidence that the beneficiary survived the insured, the proceeds of the policy shall be administered upon or distributed, or otherwise dealt with, as if the insured had survived the beneficiary, except if the policy is community or quasi-community property of the insured and the spouse of the insured and there is no

alternative beneficiary except the estate or personal representatives of the insured, the proceeds shall be distributed as community property under Section 103.

SEC. 15.1. Section 225 is added to the Probate Code, to read:

225. Section 103 and this chapter shall, insofar as they are the same in substance as the Uniform Simultaneous Death Act, be so construed and interpreted as to effectuate the general purpose to make uniform the law in those states which enact that act.

SEC. 15.2. Section 226 is added to the Probate Code, to read:

226. This chapter applies only where a person the priority of whose death is in issue died on or after January 1, 1985, and the law applicable prior to January 1, 1985, continues to apply where none of the persons the priority of whose death is in issue died on or after January 1, 1985.

SEC. 16. Section 240 of the Probate Code is amended to read:

240. If representation is called for by this code, or if a will or trust that expresses no contrary intention provides for issue or descendants to take without specifying the manner, the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living, each living member of the nearest generation of issue then living receiving one share and the share of each deceased member of that generation who leaves issue then living being divided in the same manner among his or her then living issue. If a will or trust calls for distribution per stirpes or by right of representation, these terms shall be construed under the law that applied prior to January 1, 1985.

SEC. 16.1. Section 241 is added to the Probate Code, to read:

241. Section 240 applies only where the death of the decedent in the case of intestate succession or of the testator or trustor occurs on or after January 1, 1985, and the law applicable prior to January 1, 1985, shall continue to apply where the death occurs before January 1, 1985.

SEC. 16.5. Section 257 is added to the Probate Code, to read:

257. This part applies only where the decedent was killed on or after January 1, 1985; and the law applicable prior to January 1, 1985, continues to apply where the decedent was killed before January 1, 1985.

SEC. 17. Section 282 of the Probate Code is amended to read:

282. (a) Unless the creator of the interest provides for a specific disposition of the interest in the event of a disclaimer, the interest disclaimed shall descend, go, be distributed, or continue to be held (1) as to a present interest, as if the disclaimant had predeceased the creator of the interest or (2) as to a future interest, as if the disclaimant had died before the event determining that the taker of the interest had become finally ascertained and the taker's interest indefeasibly vested. A disclaimer relates back for all purposes to the date of the death of the creator of the disclaimed interest or the determinative event, as the case may be.

(b) Notwithstanding subdivision (a):

(1) The beneficiary is not treated as having predeceased the decedent for the purpose of determining the generation at which the division of the estate is to be made under Part 6 (commencing with Section 240) or other provision of a will or trust.

(2) The beneficiary of a disclaimed interest is not treated as having predeceased the decedent for the purpose of applying subdivision (d) of Section 6409 or subdivision (b) of Section 6410.

SEC. 18. Section 372.5 of the Probate Code is amended to read:

372.5. Notwithstanding a provision in the will that one who contests or attacks the will or any of its provisions shall take nothing under the will or shall take a reduced share, any person interested may, without forfeiting any benefits under the will, contest a provision of the will which benefits a witness to the will.

SEC. 18.5. Section 647.5 is added to the Probate Code, to read:

647.5. This article, as amended by Chapter 842 of the Statutes of 1983, applies only to cases where the decedent died on or after January 1, 1985. If the decedent died before January 1, 1985, the case shall be governed by this article as it would exist if Sections 640, 641, 645, and 645.3 had not been amended by Chapter 842 of the Statutes of 1983.

SEC. 19. Section 649.6 is added to the Probate Code, to read:

649.6. After December 31, 1984, a reference in a written instrument, including a will or trust, to a provision of former Sections 202 to 206, inclusive, shall be deemed to be a reference to the comparable provision of this article.

SEC. 20. Section 658 is added to the Probate Code, to read:

658. (a) As used in this section, "1983–84 amendments" means the amendments made to Section 650 and 655 by Chapter 842 of the Statutes of 1983 and the amendments made to Sections 650, 653, 655, and 656 by Assembly Bill 2270 of the 1983–84 Regular Session if Assembly Bill 2270 is enacted in 1984 and amends those sections.

(b) This article, as amended by the 1983–84 amendments, applies only to cases where the decedent died on or after January 1, 1985. If the decedent died before January 1, 1985, the case shall be governed by this article as it would exist if it had not been amended by the 1983–84 amendments.

SEC. 20.5. Section 665 is added to the Probate Code, to read:

665. (a) The provisions of this chapter, insofar as they are substantially the same as former Chapter 8 (commencing with Section 160) of former Division 1, repealed by Section 18 of Chapter 842 of the Statutes of 1983, shall be construed as restatements and continuations thereof and not as new enactments.

(b) After December 31, 1984, a reference in a written instrument, including a will or trust, to a provision of former Chapter 8 (commencing with Section 160) of former Division 1 shall be deemed to be a reference to the corresponding provision of this chapter.

SEC. 21. Section 736 of the Probate Code is amended to read:

736. When a testator devises real property subject to a mortgage, deed of trust, or other lien and the intention is indicated by the will that the mortgage, deed of trust, or other lien is to be exonerated, other property specifically devised or bequeathed shall not be sold for the purpose of exonerating the encumbered property unless a contrary intention that the other property be sold is indicated by the will.

SEC. 21.5. Section 1055 is added to the Probate Code, to read:

1055. The repeal of Section 1050, 1051, 1052, and 1053, and the amendment of Section 1054, by Chapter 842 of the Statutes of 1983, apply only to cases where the decedent died on or after January 1, 1985. If the decedent died before January 1, 1985, the case shall be governed by this article as it would exist had Chapter 842 of the Statutes of 1983 not been enacted.

SEC. 21.7. Section 6103 is added to the Probate Code, to read:

6103. Except as otherwise specifically provided, Chapter 1 (commencing with Section 6100), Chapter 2 (commencing with Section 6110), Chapter 3 (commencing with Section 6120), Chapter 4 (commencing with Section 6130), Chapter 5 (commencing with Section 6140), Chapter 6 (commencing with Section 6200), and Chapter 7 (commencing with Section 6300) apply only where the testator died on or after January 1, 1985, and the law applicable prior to January 1, 1985, continues to apply where the testator died before January 1, 1985.

SEC. 22. Section 6112 of the Probate Code is amended to read:

6112. (a) Any person generally competent to be a witness may act as a witness to a will.

(b) A will or any provision thereof is not invalid because the will is signed by an interested witness. Unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, the fact that the will makes a devise to a subscribing witness creates a presumption that the witness procured the devise by duress, menace, fraud, or undue influence. This presumption is a presumption affecting the burden of proof.

(c) If a devise made by the will to an interested witness fails because the presumption established by subdivision (b) applies to the devise and the witness fails to rebut the presumption, the interested witness shall take such proportion of the devise made to the witness in the will as does not exceed the share of the estate which would be distributed to the witness if the will were not established. Nothing in this subdivision affects the law that applies where it is established that the witness procured a devise by duress, menace, fraud, or undue influence.

SEC. 23. Section 6122 of the Probate Code is amended to read:

6122. (a) Unless the will expressly provides otherwise, if after executing a will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes all of the following:

(1) Any disposition or appointment of property made by the will to the former spouse.

(2) Any provision of the will conferring a general or special power of appointment on the former spouse.

(3) Any provision of the will nominating the former spouse as executor, trustee, conservator, or guardian.

(b) If any disposition or other provision of a will is revoked solely by this section, it is revived by the testator's remarriage to the former spouse.

(c) In case of revocation by dissolution or annulment:

(1) Property prevented from passing to a former spouse because of the revocation passes as if the former spouse failed to survive the testator.

(2) Other provisions of the will conferring some power or office on the former spouse shall be interpreted as if the former spouse failed to survive the testator.

(d) For purposes of this section, dissolution or annulment means any dissolution or annulment which would exclude the spouse as a surviving spouse within the meaning of Section 78. A decree of legal separation which does not terminate the status of husband and wife is not a dissolution for purposes of this section.

(e) No change of circumstances other than as described in this section revokes a will.

(f) Subdivisions (a) to (d), inclusive, do not apply to any case where the final judgment of dissolution or annulment of marriage occurs before January 1, 1985. Such case is governed by the law in effect prior to January 1, 1985.

SEC. 24. Section 6140 of the Probate Code is amended to read:

6140. (a) The intention of the testator as expressed in the will controls the legal effect of the dispositions made in the will.

(b) The rules of construction expressed in this article apply where the intention of the testator is not indicated by the will.

SEC. 25. Section 6142 of the Probate Code is amended to read:

6142. Except as provided by Sections 1386.1 and 1386.2 of the Civil Code relating to powers of appointment, unless a contrary intention is indicated by the will, a will passes all property the testator owns at death including property acquired after execution of the will.

SEC. 26. Section 6143 of the Probate Code is amended to read:

6143. Unless a contrary intention is indicated by the will, a devise of property to more than one person vests the property in them as owners in common.

SEC. 27. Section 6144 of the Probate Code is amended to read:

6144. Unless a contrary intention is indicated by the will, if a will directs the conversion of real property into money, the property and its proceeds are deemed personal property from the time of the testator's death.

SEC. 28. Section 6146 of the Probate Code is amended to read:

6146. (a) A devisee who fails to survive the testator or until any future time required by the will does not take under the will.

(b) In the absence of a contrary provision in the will:

(1) If it cannot be established by clear and convincing evidence that the devisee has survived the testator, it is deemed that the devisee did not survive the testator.

(2) If it cannot be established by clear and convincing evidence that the devisee survived until a future time required by the will, it is deemed that the devisee did not survive until the required future time.

SEC. 29. Section 6147 of the Probate Code is amended to read:

6147. (a) As used in this section, "devisee" means a devisee who is kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator.

(b) Subject to subdivision (c), if a devisee is dead when the will is executed, or is treated as if he or she predeceased the testator, or fails to survive the testator or until a future time required by the will, the issue of the deceased devisee take in his or her place by representation. A devisee under a class gift is a devisee for the purpose of this subdivision unless his or her death occurred before the execution of the will and that fact was known to the testator when the will was executed.

(c) The issue of a deceased devisee do not take in his or her place if the will expresses a contrary intention or a substitute disposition.

SEC. 30. Section 6152 of the Probate Code is amended to read:

6152. Unless otherwise provided in the will:

(a) Except as provided in subdivision (b), halfbloods, adopted persons, persons born out of wedlock, stepchildren, foster children, and the issue of all such persons when appropriate to the class, are included in terms of class gift or relationship in accordance with the rules for determining relationship and inheritance rights for purposes of intestate succession.

(b) In construing a devise by a testator who is not the natural parent, a person born to the natural parent shall not be considered the child of that parent unless the person lived while a minor as a regular member of the household of the natural parent or of that parent's parent, brother, sister, or surviving spouse. In construing a devise by a testator who is not the adoptive parent, a person adopted by the adoptive parent shall not be considered the child of that parent unless the person lived while a minor (either before or after the adoption) as a regular member of the household of the adopting parent or of that parent's parent, brother, sister, or surviving spouse.

(c) Subdivisions (a) and (b) also apply in determining:

(1) Persons who would be kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator under Section 6147.

(2) Persons to be included as issue of a deceased devisee under Section 6147.

(3) Persons who would be the testator's or other designated person's heirs under Section 6151.

SEC. 31. Section 6153 is added to the Probate Code, to read:

6153. A testamentary disposition, including a devise to a person

on attaining majority, is presumed to vest at the testator's death.

SEC. 32. Section 6165 of the Probate Code is amended to read:

6165. The rules of construction in this article apply where the intention of the testator is not indicated by the will.

SEC. 33. Section 6205 of the Probate Code is amended to read:

6205. "Descendants" means children, grandchildren, and their lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent in Sections 26 and 54. A reference to "descendants" in the plural includes a single descendant where the context so requires.

SEC. 34. Section 6206 of the Probate Code is repealed.

SEC. 35. Section 6206 is added to the Probate Code, to read:

6206. A reference in a California statutory will to the "Uniform Gifts to Minors Act of any state" includes both the Uniform Gifts to Minors Act of any state and the Uniform Transfers to Minors Act of any state.

SEC. 36. Section 6226 of the Probate Code is amended to read:

6226. (a) If after executing a California statutory will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes any disposition of property made by the will to the former spouse and any nomination of the former spouse as executor, trustee, or guardian made by the will. If any disposition or nomination is revoked solely by this section, it is revived by the testator's remarriage to the former spouse.

(b) In case of revocation by dissolution or annulment:

(1) Property prevented from passing to a former spouse because of the revocation passes as if the former spouse failed to survive the testator.

(2) Provisions nominating the former spouse as executor, trustee, or guardian shall be interpreted as if the former spouse failed to survive the testator.

(c) For purposes of this section, divorce or annulment means any dissolution or annulment that would exclude the spouse as a surviving spouse within the meaning of Section 78. A decree of legal separation which does not terminate the status of husband and wife is not a divorce or dissolution for purposes of this section.

(d) This section applies to any California statutory will, without regard to the time when the will was executed, but this section does not apply to any case where the final judgment of dissolution or annulment of marriage occurs before January 1, 1985; and, if the final judgment of dissolution or annulment of marriage occurs before January 1, 1985, the case is governed by the law that applied prior to January 1, 1985.

SEC. 37. Section 6247 of the Probate Code is amended to read:

6247. (a) Except as specifically provided in this chapter, a California statutory will shall include only the texts of the property disposition clauses and the mandatory clauses as they exist on the day the California statutory will is executed.

(b) Sections 6205, 6206, and 6226 apply to every California statutory will, including those executed before January 1, 1985.

(c) Notwithstanding Section 6222 and except as provided in subdivision (b), a California statutory will is governed by the law that applied prior to January 1, 1985, if the California statutory will is executed on or after January 1, 1985, on a form that (1) was prepared for use under former Sections 56 to 56.14, inclusive, of the Probate Code and (2) satisfied the requirements of law that applied prior to January 1, 1985.

SEC. 38. Section 6248 of the Probate Code is amended to read:

6248. Except as specifically provided in this chapter, the general law of California applies to a California statutory will.

SEC. 39. Section 6300 of the Probate Code is amended to read:

6300. A devise, the validity of which is determinable by the law of this state, may be made by a will to the trustee of a trust established or to be established by the testator or by the testator and some other person or by some other person (including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts) if the trust is identified in the testator's will and its terms are set forth in a written instrument (other than a will) executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator (regardless of the existence, size, or character of the corpus of the trust). The devise is not invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised (1) is not deemed to be held under a testamentary trust of the testator but becomes a part of the trust to which it is given and (2) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before or after the death of the testator (regardless of whether made before or after the execution of the testator's will). Unless otherwise provided in the will, a revocation or termination of the trust before the death of the testator causes the devise to lapse.

SEC. 39.3. Section 6330 is added to the Probate Code, to read:

6330. This chapter, insofar as it is substantially the same as former Chapter 10 (commencing with Section 175) of former Division 1, repealed by Section 18 of Chapter 842 of the Statutes of 1983, shall be construed as a restatement and continuation thereof and not as a new enactment. After December 31, 1984, a reference in a written instrument to the previously existing provisions relating to the subject matter of this chapter shall be deemed to be a reference to the corresponding provisions of this chapter.

SEC. 39.7. Section 6390 is added to the Probate Code, to read:

6390. The provisions of this chapter shall be construed as restatements and continuations of former law and not as new enactments. After December 31, 1984, a reference in a written

instrument, including, but not limited to, a will, to the former law shall be deemed to be a reference to the corresponding provision of this chapter.

SEC. 40. Section 6401 of the Probate Code is amended to read:

6401. (a) As to community property, the intestate share of the surviving spouse is the one-half of the community property that belongs to the decedent under Section 100.

(b) As to quasi-community property, the intestate share of the surviving spouse is the one-half of the quasi-community property that belongs to the decedent under Section 101.

(c) As to separate property, the intestate share of the surviving spouse is as follows:

(1) The entire intestate estate if the decedent did not leave any surviving issue, parent, brother, sister, or issue of a deceased brother or sister.

(2) One-half of the intestate estate in the following cases:

(A) Where the decedent leaves only one child or the issue of a deceased child.

(B) Where the decedent leaves no issue but leaves a parent or parents or their issue or the issue of either of them.

(3) One-third of the intestate estate in the following cases:

(A) Where the decedent leaves more than one child living.

(B) Where the decedent leaves one child living and the issue of one or more deceased children.

(C) Where the decedent leaves issue of two or more deceased children.

SEC. 41. Section 6402 of the Probate Code is amended to read:

6402. Except as provided in Section 6402.5, the part of the intestate estate not passing to the surviving spouse under Section 6401, or the entire intestate estate if there is no surviving spouse, passes as follows:

(a) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation.

(b) If there is no surviving issue, to the decedent's parent or parents equally.

(c) If there is no surviving issue or parent, to the issue of the parents or either of them, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation.

(d) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, to the grandparent or grandparents equally, or to the issue of such grandparents if there is no surviving grandparent, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation.

(e) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, but the decedent is survived

by the issue of a predeceased spouse, to such issue, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take by representation.

(f) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, or issue of a predeceased spouse, but the decedent is survived by next of kin, to the next of kin in equal degree, but when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote.

(g) If there is no surviving next of kin of the decedent and no surviving issue of a predeceased spouse of the decedent, but the decedent is survived by the parents of a predeceased spouse or the issue of such parents, to the parent or parents equally, or to the issue of such parents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take by representation.

SEC. 41.5. Section 6408 of the Probate Code is amended to read:

6408. (a) A relationship of parent and child is established for the purpose of determining intestate succession by, through, or from a person in the following circumstances:

(1) Except as provided in Section 6408.5, the relationship of parent and child exists between a person and his or her other natural parents, regardless of the marital status of the natural parents.

(2) The relationship of parent and child exists between an adopted person and his or her adopting parent or parents.

(3) The relationship between a person and his or her foster parent or stepparent has the same effect as if it were an adoptive relationship if (A) the relationship began during the person's minority and continued throughout the parties' joint lifetimes and (B) it is established by clear and convincing evidence that the foster parent or stepparent would have adopted the person but for a legal barrier.

(b) For the purpose of determining whether a person is a "natural parent" as that term is used in Section 6408 and 6408.5:

(1) A natural parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act, Part 7 (commencing with Section 7000) of Division 4 of the Civil Code.

(2) A natural parent and child relationship may be established pursuant to any other provisions of the Uniform Parentage Act, except that the relationship may not be established by an action under subdivision (c) of Section 7006 of the Civil Code unless either (A) a court order was entered during the father's lifetime declaring paternity or (B) paternity is established by clear and convincing evidence that the father has openly and notoriously held out the child as his own.

SEC. 42. Section 6408.5 of the Probate Code is amended to read:

6408.5. Notwithstanding Section 6408:

(a) The relationship of parent and child does not exist between an adopted person and his or her natural parent unless (1) the natural parent and adopted person lived together at any time as parent and child and (2) the adoption was by the spouse of either of the natural parents or after the death of either of the natural parents.

(b) Neither a parent nor a relative of a parent (except for the issue of the child or a wholeblood brother or sister of the child or the issue of such brother or sister) inherits from or through a child on the basis of the relationship of parent and child if the child has been adopted by someone other than the spouse or surviving spouse of that parent.

(c) If a child is born out of wedlock, neither a parent nor a relative of a parent inherits from or through a child on the basis of the relationship of parent and child between that parent and child unless the parent both (1) acknowledged the child and (2) contributed to the support or the care of the child.

SEC. 43. Section 6409 of the Probate Code is amended to read:

6409. (a) If a person dies intestate as to all or part of his or her estate, property the decedent gave during lifetime to an heir is treated as an advancement against that heir's share of the intestate estate only if one of the following conditions is satisfied:

(1) The decedent declares in a contemporaneous writing that the gift is to be deducted from the heir's share of the estate or that the gift is an advancement against the heir's share of the estate.

(2) The heir acknowledges in writing that the gift is to be so deducted or is an advancement.

(b) Subject to subdivision (c), the property advanced is to be valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the decedent, whichever occurs first.

(c) If the value of the property advanced is expressed in the contemporaneous writing of the decedent, or in an acknowledgment of the heir made contemporaneously with the advancement, that value is conclusive in the division and distribution of the intestate estate.

(d) If the recipient of the property advanced fails to survive the decedent, the property is not taken into account in computing the intestate share to be received by the recipient's issue unless the declaration or acknowledgment provides otherwise.

SEC. 44. Section 6412 of the Probate Code is amended to read:

6412. Except to the extent provided in Section 120, the estates of dower and curtesy are not recognized.

SEC. 44.5. Section 6414 is added to the Probate Code, to read:

6414. (a) Except as provided in subdivision (b), this part applies only where the decedent died on or after January 1, 1985, and the law applicable prior to January 1, 1985, continues to apply where the decedent died before January 1, 1985.

(b) Section 6412 applies whether the decedent died before, on, or after January 1, 1985.

(c) Where any of the following provisions is applied in a case where the decedent died before January 1, 1985, any reference in such provision to this part shall be deemed to be a reference to former Division 2 (commencing with Section 200) which was repealed by Section 19 of Chapter 842 of the Statutes of 1983:

(1) Section 377 of the Code of Civil Procedure.

(2) Section 3524 of the Penal Code.

(3) Section 300 of the Probate Code.

SEC. 45. Section 6560 of the Probate Code is amended to read:

6560. Except as provided in Section 6561, if a testator fails to provide by will for his or her surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive a share in the estate consisting of the following property in the estate:

(a) The one-half of the community property that belongs to the testator under Section 100.

(b) The one-half of the quasi-community property that belongs to the testator under Section 101.

(c) A share of the separate property of the testator equal in value to that which the spouse would have received if the testator had died intestate, but in no event is the share to be more than one-half the value of the separate property in the estate.

SEC. 46. Section 6562 of the Probate Code is amended to read:

6562. (a) Except as provided in subdivision (b), in satisfying a share provided by this article:

(1) The share shall first be taken from the testator's estate not disposed of by will, if any.

(2) If that is not sufficient, so much as may be necessary to satisfy the share shall be taken from all devisees in proportion to the value they may respectively receive under the testator's will. Such value shall be determined as of the date of the decedent's death.

(b) If the obvious intention of the testator in relation to some specific devise or other provision of the will would be defeated by the application of subdivision (a), the specific devise or provision may be exempted from the apportionment under subdivision (a), and a different apportionment, consistent with the intention of the testator, may be adopted.

SEC. 47. Section 6573 of the Probate Code is amended to read:

6573. (a) Except as provided in subdivision (b), in satisfying a share provided by this article:

(1) The share shall first be taken from the testator's estate not disposed of by will, if any.

(2) If that is not sufficient, so much as may be necessary to satisfy the share shall be taken from all devisees in proportion to the value they may respectively receive under the testator's will. Such value shall be determined as of the date of the decedent's death.

(b) If the obvious intention of the testator in relation to some

specific devise or other provision of the will would be defeated by the application of subdivision (a), the specific devise or provision may be exempted from the apportionment under subdivision (a), and a different apportionment, consistent with the intention of the testator, may be adopted.

SEC. 48. Article 3 (commencing with Section 6580) is added to Chapter 5 of Part 3 of Division 6 of the Probate Code, to read:

Article 3. Testator's Death Before January 1, 1985

6580. This chapter applies only where the testator died on or after January 1, 1985, and the law applicable prior to January 1, 1985, continues to apply where the testator died before January 1, 1985.

SEC. 49. Section 1389.4 of the Civil Code, as amended by Chapter 842 of the Statutes of 1983, applies only to cases where the donee dies on or after January 1, 1985. If the donee died before January 1, 1985, Section 1389.4 of the Civil Code as it would exist had it not been so amended shall continue to apply.

SEC. 50. Subdivision (b) of Section 282 of the Probate Code applies only to cases where the disclaimer is filed on or after January 1, 1985.

SEC. 51. Section 372.5, added to the Probate Code by Chapter 842 of the Statutes of 1983 and amended by this act, applies only to cases where the decedent died on or after January 1, 1985.

SEC. 52. Notwithstanding the repeal of Section 350 of the Probate Code, the section shall continue to apply to any case where the testator died before January 1, 1985.

SEC. 53. Section 736 of the Probate Code, as amended by Chapter 842 of the Statutes of 1983 and by this act, applies only to cases where the testator dies on or after January 1, 1985. If the testator died before January 1, 1985, Section 736 of the Probate Code as it would exist had it not been so amended shall continue to apply.

SEC. 54. Section 16.5 of this act shall only become operative if (1) AB 2255 is enacted, becomes effective January 1, 1985, and adds Part 7 (commencing with Section 250) to Division 2 of the Probate Code and (2) this bill is enacted after AB 2255, in which case Section 14.7 of this act shall not become operative.

SEC. 55. Section 2.5 of this act shall only become operative if AB 2282 is enacted. If Section 2.5 of this act becomes operative, Section 709.010 of the Code of Civil Procedure shall apply to all trusts, as defined in that section, whether the trust is created before or after the effective date of this act.

CHAPTER 893

An act to add Title 10 (commencing with Section 5180) to Part 5 of Division 4 of the Civil Code, and to amend Section 10605 of, and to add Section 114.5 to, the Health and Safety Code, relating to family law, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Title 10 (commencing with Section 5180) is added to Part 5 of Division 4 of the Civil Code, to read:

TITLE 10. STATEWIDE COORDINATION OF FAMILY MEDIATION AND CONCILIATION SERVICES

5180. The Legislature finds that it has made many significant changes in the area of family law in recent years, including legislation authorizing awards for the joint custody of children and requiring the mediation of child custody and visitation disputes. There presently is no statewide coordination of the application of these new laws, no uniform statistical reporting system as to family law matters, no ongoing training for personnel involved in the expanded family law system, and no evaluation of the effectiveness of current law for the purpose of shaping future public policy.

5181. The Judicial Council shall do all of the following:

(a) Assist counties in implementing Sections 4351.5 and 4607.

(b) Establish and implement a uniform statistical reporting system relating to actions brought pursuant to this part, including, but not limited to, a custody disposition survey.

(c) Administer a program of grants to public and private agencies submitting proposals for research, study, and demonstration projects in the area of family law, including, but not limited to, all of the following:

(1) The development of conciliation and mediation and other newer dispute resolution techniques, particularly as they relate to child custody and to avoidance of litigation.

(2) The establishment of criteria to insure that a child support order is adequate.

(3) The development of methods to insure that a child support order is paid.

(4) The study of the feasibility and desirability of guidelines to assist judges in making custody decisions.

(d) Administer a program for the training of court personnel involved in family law proceedings, which shall be available to the court personnel and which shall be totally funded from funds

specified in Section 5183.

5182. The Judicial Council shall establish an advisory committee of persons representing a broad spectrum of interest in and knowledge about family law. The committee shall recommend criteria for determining grant recipients pursuant to subdivision (c) of Section 5181, which shall include proposal evaluation guidelines and procedures for submission of the results to the Legislature, the Governor, and family law courts. In accordance with established criteria, the committee shall receive grant proposals and shall recommend the priority of submitted proposals.

5183. Funds collected by the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, and grants, gifts, or bequests made to the state from private sources to be used for the purposes of this title shall be deposited into the General Fund and shall only be used for the purposes of this title. No funds other than those so deposited shall be used for those purposes. That money shall be appropriated to the Judicial Council for the support of the programs authorized by this title as provided by the Legislature in the annual Budget Act. The Judicial Council may utilize funds to provide staffing as may be necessary to carry out the purposes of this title. In order to defray the costs of collection of these funds, the local registrar, county recorder, or county clerk may retain a percentage of the funds collected, not to exceed the lesser of 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, or the actual costs of collection.

SEC. 2. Section 114.5 is added to the Health and Safety Code, to read:

114.5. In the fee specified in subdivisions (c) and (d) of Section 10605, the adjustment authorized by Section 114 shall be applicable to the additional fee charged to applicants other than public agency applicants for certified copies of marriage or marriage dissolution records, as well as to the other fees imposed by that section.

SEC. 3. Section 10605 of the Health and Safety Code is amended to read:

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

(b) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven dollar ($7) fee is exempt from subdivision (d) and shall be paid to either a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record that the agency is required to obtain in the ordinary course of business. A fee of six

dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar and county recorder to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each county clerk to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

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

(f) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage or marriage dissolution records by subdivisions (c) and (d) may be increased pursuant to Section 114.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 5. This act shall not be construed to impose any new or additional mandatory family law mediation procedures upon local agencies.

SEC. 6. Sections 1 and 7 of this act shall become operative on January 1, 1985.

SEC. 7. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from those funds deposited in the General Fund pursuant to Section 5183 of the Civil Code for the purposes of this act.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the immediate collection of the fees authorized by this act for the support of family law programs and to permit the Judicial Council to otherwise prepare for the implementation of the act, it is necessary that it take effect at the earliest possible date.

CHAPTER 894

An act to amend Sections 1340, 35204, 35205, 42649, 42660, and 85265 of the Education Code, relating to schools.

[Approved by Governor September 5, 1985. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. The State Allocation Board shall apportion from the State School Deferred Maintenance Fund the sum of three hundred thirteen thousand six hundred fifty-three dollars ($313,653) to the Moreland School District for projects in the district's approved deferred maintenance plan.

SEC. 1.5. Section 1340 of the Education Code is amended to read:

1340. Notwithstanding any other provision of law, the following procedure may be utilized to make payments to companies providing tax-sheltered annuities for employees of county superintendents of schools. The county superintendent of schools may designate one or more national or state banks having its principal office in this state, provided its deposits are insured by the Federal Deposit Insurance Corporation, to act as disbursing agents for the county superintendent of schools. The county superintendent of schools may draw orders and requisitions upon the funds of the county superintendent of schools for the purchase of authorized tax-sheltered annuities, in favor of these banks. The county auditor shall follow the procedure with respect to examining and allowing the orders and requisitions set forth in Sections 42639 and 85239. The county superintendent of schools, upon receiving allowed warrants from the county auditor, shall transmit them to the designated banks. As soon as feasible following transmittal of these warrants to these banks, the county superintendent of schools shall furnish these banks with listings containing all information required to enable these banks to properly disburse payments to the companies, including identification of the employees for whom the annuities are purchased, the amount of payment on behalf of each designated employee, and the company to which the payment on behalf of each designated employee is to be made. It shall be the duty of these banks to disburse these payments to the companies entitled thereto by check, bank draft, or other appropriate instrument of the bank, within a reasonable time after receipt of each payment and the listings furnishing the necessary information for disbursements, which time period shall not exceed 5 working days. These disbursing banks shall be deemed to be agents of the county superintendents of schools purchasing these annuities on behalf of their employees, and the moneys received by the banks shall be deemed to be deposits of the county superintendents of schools. Security for the deposits shall be furnished as required by the laws of this state.

SEC. 2. Section 35204 of the Education Code is amended to read:

35204. The governing board of any school district, may contract for the services of an attorney in private practice, as an employee or independent contractor, or utilize an administrative adviser for whatever purpose the governing board deems appropriate, and compensation of this attorney pursuant to contract shall be a proper use of school district funds, but the school district shall first obtain the written views of the district attorney or county counsel as to the merits of any litigation and the form of the proposed contract of employment with the private attorney. The district attorney or the county counsel shall furnish his or her written views within seven days from the time he or she is requested by the governing board of the school district. These written views shall not be binding upon the governing board, but shall be advisory only. The views of the district attorney or county counsel shall not be required for purposes of this section where the district attorney or county counsel represents the opposing party in any action for which an attorney in private practice has been contracted. For purposes of this section, "an attorney in private practice" includes a sole practitioner, partnership, or professional corporation.

SEC. 3. Section 35205 of the Education Code is amended to read:

35205. The governing board of any school district may contract with a qualified attorney in private practice to provide legal services and compensation of this attorney in private practice pursuant to contract under this section shall be a proper use of school district funds, but the school district shall first obtain the written views of the district attorney or county counsel, which shall be furnished within seven days from the time of the request by the governing board, as to the need for legal services and on the form of the proposed contract with the private attorney. These written views shall not be binding upon the governing board, but shall be advisory only. The views of the district attorney or county counsel shall not be required for purposes of this section where the district attorney or county counsel represents the opposing party in any action for which an attorney in private practice has been contracted.

SEC. 4. Section 42649 of the Education Code is amended to read:

42649. Notwithstanding any other provision of law, the following procedure may be utilized to make payments to companies providing tax-sheltered annuities for employees of school districts. The county superintendent of schools may designate one or more national or state banks having its principal office in this state, provided its deposits are insured by the Federal Deposit Insurance Corporation, to act as disbursing agents for school districts under his jurisdiction. The county superintendent of schools may draw orders and requisitions upon the funds of the respective public employers for the purchase of authorized tax-sheltered annuities, in favor of such banks. The county auditor shall follow the procedure with respect to examining and allowing such orders and requisitions set forth in Section 42639. The county superintendent of schools, upon

receiving allowed warrants from the county auditor, shall transmit them to such designated banks. As soon as feasible following transmittal of these warrants to these banks, the county superintendent of schools shall furnish these banks with listings containing all information required to enable these banks to properly disburse payments to the companies, including identification of the employees for whom the annuities are purchased, the amount of payment on behalf of each designated employee, and the company to which the payment on behalf of each designated employee is to be made. It shall be the duty of these banks to disburse such payments to the companies entitled thereto by check, bank draft, or other appropriate instrument of the bank, within a reasonable time after receipt of these payments and the listings furnishing the necessary information for disbursements, which time period shall not exceed five working days. These disbursing banks shall be deemed to be agents of the respective public employers purchasing these annuities on behalf of their respective employees, and the moneys received by the banks shall be deemed to be deposits of the respective public employers. Security for the deposits shall be furnished as required by the laws of this state.

SEC. 5. Section 42660 of the Education Code is amended to read:

42660. Unless otherwise provided by county ordinance, any school warrant not presented to the county treasurer within six months after it was issued is void and any order issued by the governing board of a school district, but not approved by the county superintendent of schools for want of funds, is void if not presented to the county superintendent of schools within two years after notice has been given that the order will be approved on presentation. The county auditor shall each month inform the county superintendent of schools of warrants which have become void during the preceding month and the county superintendent of schools shall transmit that information to the governing board of the school district together with information as to orders which have become void.

Any time within two years from the date on which the original warrant became void, or during any other period of time as specified by resolution of the governing board, the payee, assignee, or the legal representative or heir of a deceased payee of any warrant which is void as provided in this section may present the warrant to the governing board of the school district which issued the order on which the warrant was drawn, or declare by affidavit that the warrant has been lost or destroyed, and the governing board may adopt an order instructing the county auditor to draw a new warrant in favor of the payee in the same amount as the original warrant, or the governing board may by resolution authorize the county auditor to draw new warrants within the limitations prescribed by the resolution without prior individual order of the governing board, provided the limitations prescribed by this section have been complied with. Any new warrant shall be subject to the same limitations as the original warrant which it replaces.

SEC. 6. Section 85265 of the Education Code is amended to read:

85265. Notwithstanding any other provision of law, the following procedure may be utilized to make payments to companies providing tax-sheltered annuities for employees of community college districts. The county superintendent of schools may designate one or more national or state banks having its principal office in this state, provided its deposits are insured by the Federal Deposit Insurance Corporation, to act as disbursing agents for community college districts under his or her jurisdiction. The county superintendent of schools may draw orders and requisitions upon the funds of the respective public employers for the purchase of authorized tax-sheltered annuities, in favor of these banks. The county auditor shall follow the procedure with respect to examining and allowing these orders and requisitions set forth in Section 85239. The county superintendent of schools, upon receiving allowed warrants from the county auditor, shall transmit them to these designated banks. As soon as feasible following transmittal of these warrants to these banks, the county superintendent of schools shall furnish these banks with listings containing all information required to enable these banks to properly disburse payments to the companies, including identification of the employees for whom the annuities are purchased, the amount of payment on behalf of each designated employee, and the company to which the payment on behalf of each designated employee is to be made. It shall be the duty of these banks to disburse these payments to the companies entitled thereto by check, bank draft, or other appropriate instrument of the bank, within a reasonable time after receipt of these payments and the listings furnishing the necessary information for disbursements, which time period shall not exceed 5 working days. These disbursing banks shall be deemed to be agents of the community college districts purchasing these annuities on behalf of their respective employees, and the moneys received by the banks shall be deemed to be deposits of the community college districts. Security for the deposits shall be furnished as required by the laws of this state.

CHAPTER 895

An act to amend Section 18015 of the Education Code, and to amend Section 25262 of the Government Code, relating to counties.

[Approved by Governor September 5, 1984 Filed with Secretary of State September 6, 1984]

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

SECTION 1. Section 18015 of the Education Code is amended to read:

18015. As used in this chapter:

(a) "Public library" means a library, or two or more libraries, operated as a single entity by one or more public jurisdictions and which serve the general public without distinction.

(b) "Foundation program" means those elements of library service which are basic to its function as a provider of information, education, and cultural enrichment to all segments of the community, including, but not limited to, collection development and maintenance, lending services, information services, facility maintenance, and administration. The foundation program shall not include major capital improvements, which, for purposes of this chapter, shall be defined as the purchase of real property, the construction or improvement of buildings, and the purchase of equipment and the payment of fees or other costs in connection with the same.

(c) "Fiscal officer" means, for a municipal library, the chief fiscal officer of the municipality; for a county library or a library district under the jurisdiction of the county board of supervisors, the chief fiscal officer of the county; and for an independent library district, the chief librarian of the district. In the case of a public library which provides foundation program service by contract to one or more jurisdictions in addition to the jurisdiction or jurisdictions with which it is affiliated, the chief fiscal officer of the jurisdiction with which it is primarily affiliated shall be deemed the fiscal officer for the public library for the purposes of this chapter.

SEC. 2. Section 25262 of the Government Code is amended to read:

25262. The county budget may contain a provision for an equipment replacement reserve within a fund. The amount in this reserve shall be identified with the class of fixed assets, and may accumulate from year to year, but at no time shall it exceed the estimated replacement cost of the items of fixed assets for which it has been accumulated. The particular amounts in the reserve shall be made available for expenditure in the year that the items are replaced or removed from service without replacement. The estimated replacement cost of the fixed assets shall be adjusted each year.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 896

An act to amend Section 66477.5 of the Government Code, relating to local government.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 66477.5 of the Government Code is amended to read:

66477.5. Any city, county, or city and county may use the interest earned on the accumulated in-lieu fees required pursuant to Section 66477 for the maintenance of any existing park within the city, county, or city and county.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1987, deletes or extends that date.

CHAPTER 897

An act to amend Section 41103.2 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 41103.2 of the Vehicle Code is amended to read:

41103.2. (a) No warrant for the arrest of a resident of this state may be issued for an offense for which a notice of noncompliance regarding that person has been forwarded to the department pursuant to Section 41103.5, except that when a notice to the department has been returned to the court under Section 4762 or 4764, or recalled by the court under Section 41103.5 or by motion of the court, a warrant may then be issued.

(b) In no case shall the owner of a vehicle involved in a parking offense for which a notice of noncompliance may be forwarded pursuant to Section 41103.5 be made to answer for that offense where the offense took place before the owner purchased the vehicle.

(c) The time limitation provided by law for commencement of a criminal action for an offense specified in Section 41102 shall be tolled from and after the date a notice of noncompliance therefor has been forwarded to the department pursuant to Section 41103.5 until the notice is returned to the court under Section 4762 or 4764 or is

recalled by the court under Section 41103.5 or by motion of the court.

CHAPTER 898

An act to amend Section 1060 of the Government Code, relating to public officers and employees.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 1060 of the Government Code is amended to read:

1060. The following officers shall keep their offices in the City of Sacramento:

(a) The Governor.
(b) Secretary of State.
(c) Controller.
(d) Treasurer.
(e) Attorney General.
(f) Superintendent of Public Instruction.
(g) Justices of the Supreme Court.
(h) Clerk and reporters of the Supreme Court.
(i) Adjutant General.

CHAPTER 899

An act to amend Sections 1501 and 1521 of the Code of Civil Procedure, relating to unclaimed property.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 1501 of the Code of Civil Procedure is amended to read:

1501. As used in this chapter, unless the context otherwise requires:

(a) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

(b) "Banking organization" means any national or state bank, trust company, banking company, land bank, savings bank, safe-deposit company, private banker, or any similar organization.

(c) "Business association" means any private corporation, joint stock company, business trust, partnership, or any association for

business purposes of two or more individuals, whether or not for profit, including, but not by way of limitation, a banking organization, financial organization, life insurance corporation, and utility.

(d) "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, investment company, or any similar organization.

(e) "Government or governmental subdivision or agency" does not include the United States government or any officer, department, or agency thereof.

(f) "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

(g) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(h) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his or her legal representative.

(i) "Person" means any individual, business association, government or governmental subdivision or agency, two or more persons having a joint or common interest, or any other legal or commercial entity, whether such person is acting in his or her own right or in a representative or fiduciary capacity.

(j) "Employee benefit plan distribution" means any money, life insurance, endowment or annuity policy or proceeds thereof, securities or other intangible property, or any tangible property, distributable to a participant, former participant, or the beneficiary or estate or heirs of a participant or former participant or beneficiary, from a trust or custodial fund established under a plan to provide health and welfare, pension, vacation, severance, retirement benefit, death benefit, stock purchase, profit sharing, employee savings, supplemental unemployment insurance benefits or similar benefits, or which is established under a plan by a business association functioning as or in conjunction with a labor union which receives for distribution residuals on behalf of employees working under collective-bargaining agreements.

(k) "Residuals" means payments pursuant to a collective bargaining agreement of additional compensation for domestic and foreign uses of recorded materials.

SEC. 2. Section 1521 of the Code of Civil Procedure is amended to read:

1521. (a) Except as provided in subdivision (b), and subject to Section 1510, all employee benefit plan distributions and any income or other increment thereon escheats to the state if the owner has not, within seven years after it becomes payable or distributable,

accepted such distribution, corresponded in writing concerning such distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which such trust or fund is established. As used in this section, "fiduciary" means any person exercising any power, authority, or responsibility of management or disposition with respect to any money or other property of a retirement system or plan, and "administrator" means the person specifically so designated by the plan, trust agreement, contract, or other instrument under which the retirement system or plan is operated, or if none is designated, the employer.

(b) Except as provided in subdivision (c), an employee benefit plan distribution and any income or other increment thereon shall not escheat to this state if, at the time such distribution shall become payable to a participant in an employee benefit plan, such plan contains a provision for forfeiture or expressly authorizes the administrator to declare a forfeiture of a distribution to a beneficiary thereof who cannot be found after a period of time specified in such plan, and the trust or fund established under the plan has not terminated prior to the date on which such distribution would become forfeitable in accordance with such provision.

(c) A participant entitled to an employee benefit plan distribution in the form of residuals shall be relieved from a forfeiture declared under subdivision (b) upon the making of a claim therefor.

CHAPTER 900

An act to add and repeal Article 12 (commencing with Section 4425) to Chapter 9 of Division 2 of the Business and Professions Code, relating to pharmacy, and making an appropriation therefor.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Article 12 (commencing with Section 4425) is added to Chapter 9 of Division 2 of the Business and Professions Code, to read:

Article 12. Impaired Pharmacists Program

4425. It is the intent of the Legislature that the California State Board of Pharmacy seek ways and means to identify and rehabilitate pharmacists whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness, so that pharmacists so afflicted may be treated and returned to the practice of pharmacy in a manner which will not endanger the public health and safety.

It is also the intent of the Legislature that the board shall implement this legislation by establishing a diversion program as a voluntary alternative to traditional disciplinary actions.

4426. As used in this article:

(a) "Board" means the California State Board of Pharmacy.

(b) "Diversion program" means a rehabilitation program designed and administered by a contracting Employee Assistance Program, available to the board in conjunction with, or as an alternative to, other traditional sanctions which the board may impose upon pharmacists pursuant to disciplinary actions within its jurisdiction.

(c) "Employee Assistance Program" means an agency or organization which provides confidential assessments and referral services for persons experiencing problems related to alcohol, drug abuse, or mental illness.

(d) "Impaired Pharmacists Program" or "program" means the rehabilitation program created by this article for pharmacists whose competency may be threatened or diminished due to abuse of alcohol or other drugs.

(e) "Volunteer intervenor" means a licensed pharmacist recruited through a pharmacists' professional association who is available and trained to assist pharmacists seeking the benefits of the Impaired Pharmacists Program.

4427. The program shall fulfill two distinct functions. It shall serve as a diversion program to which the board may refer licentiates, where appropriate, instead of, or in addition to, other means of disciplinary action, and it shall be a confidential source of treatment for pharmacists who, on a strictly voluntary basis and without the knowledge of the board, desire to avail themselves of its services.

4428. The board shall administer the provisions of this article, provided that the names and all identifying information pertaining to those pharmacists who voluntarily seek the services of the program, apart from the institution of any disciplinary action of the board, shall not be disclosed to the board, except as provided in Sections 4434 and 4435.

4429. The board shall contract with one or more employee assistance programs to administer the Impaired Pharmacists Program statewide. The contractor shall be selected through a competitive bid process, and the contract may be renewed annually.

4430. The board shall contract with a pharmacists' professional association with statewide representation for the following purposes

(a) To coordinate the voluntary participation in the program.

(b) To recruit volunteer intervenors and to train them in conjunction with the Employee Assistance Program.

(c) To promote the program within the profession and to the public.

(d) To establish and maintain a 24-hour statewide toll-free telephone "hotline" service.

(e) To report to the board on these functions.

4430.5. The board shall designate a program coordinator whose responsibilities shall include the following:

(a) To serve as liaison between the board and the Employee Assistance Program.

(b) To monitor and evaluate the Employee Assistance Program.

(c) To assist the board enforcement unit in tracking pharmacists referred to the program as part of, or alternative to, disciplinary proceedings.

4431. The board shall establish criteria for the participation of pharmacists in the diversion program.

4432. The functions of the Employee Assistance Program shall include the following:

(a) To evaluate those pharmacists who request participation in the program according to the guidelines prescribed by the board.

(b) To review and designate those treatment facilities and services to which pharmacists in the program may be referred.

(c) To receive and review information concerning a pharmacist's participation in the program.

(d) To train and work with volunteer intervenors in conjunction with the pharmacists' professional association.

(e) To assist pharmacists' professional associations in publicizing the program.

(f) To prepare reports to be submitted to the board.

4433. (a) The board shall inform each pharmacist referred to the employees assistance program as part of a board action of the procedures followed in the program, of the rights and responsibilities of the pharmacist in the program, and of the possible results of noncompliance with the program.

Any failure to comply with the provisions of the treatment program may result in termination of the pharmacist's participation in the diversion program. The name and license number of a pharmacist who is terminated for failure to comply with the provisions of the treatment program shall be reported to the board.

Participation in a program under this article shall not be a defense to any disciplinary action which may be taken by the board. Further, no provision of this article shall preclude the board from commencing disciplinary action against a licensee who is terminated from a program under this article.

4434. (a) The employee assistance program shall inform each pharmacist who voluntarily participates in the impairment program without referral by the board of the procedures followed in the program, of the rights and responsibilities of the pharmacist in the program, and of the possible results of noncompliance with the program.

(b) The board shall be informed of the pharmacist's noncompliance with the treatment program if the employee assistance program determines that the pharmacist's resuming practice of pharmacy would pose a threat to the health and safety of

the public.

(c) Participation in a program under this article shall not be a defense to any disciplinary action which may be taken by the board. Further, no provision of this article shall preclude the board from commencing disciplinary action against a licensee who is terminated from a program under this article.

4435. The board shall review the activities of the employee assistance program on a quarterly basis. As part of this evaluation, the board shall review files of all participants in the impairment program. Names of those pharmacists who entered the program voluntarily without the knowledge of the board shall remain confidential from the board except when monitoring by the board reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

4436. All board records and records of the employee assistance program pertaining to the treatment of a pharmacist in the program shall be kept confidential and are not subject to discovery or subpoena.

4438. No member of the board or the contracting professional association or any volunteer intervenor shall be liable for any civil damages because of acts or ommissions which may occur while acting in good faith pursuant to this article.

4439. This article shall be operative until January 1, 1988, and on that date is repealed, unless a later enacted statute deletes or extends that date. The board shall prepare a sunset review report of the program, and submit the report to the Legislature on or before March 31, 1987.

SEC. 2. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Pharmacy Board Contingent Fund to the California State Board of Pharmacy to carry out the purposes of this act.

CHAPTER 901

An act to add Section 12028.5 to the Penal Code, relating to weapons.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 12028.5 is added to the Penal Code, to read:

12028.5. (a) As used in this section, the following words have the following meanings:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to

himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

(b) A sheriff, undersheriff, deputy sheriff, or police officer of a city at the scene of a domestic violence incident involving a threat to human life or a physical assault may take temporary custody of any firearm described in Section 12001 in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm and list any identification or serial number on the firearm. The receipt shall indicate where the firearm can be recovered and the date after which the owner or possessor can recover the firearm. No firearm shall be held less than 48 hours. If a firearm is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure.

(c) Any firearm which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm and proof of ownership.

(d) Any firearm taken into custody and held by a police or sheriff's department for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028.

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

CHAPTER 902

An act to amend Sections 39604, 39703, and 39909 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 39604 of the Health and Safety Code is amended to read:

39604. (a) The state board shall submit to the Governor and the Legislature, not later than January 1, 1985, and every two years thereafter, a biennial report on air quality conditions and trends statewide and on the status and effectiveness of state and local air quality programs.

(b) The report shall include, but not be limited to, all of the following:

(1) A review of air quality trends in each air basin over the most recent five-calendar-year period for which a complete data record is available.

(2) A statement of the number of violations of air quality standards which occurred in each air basin over the most recent two calendar years for which a complete data record is available, and a comparison of the number of violations to those in prior years.

(3) A listing of any changes in state ambient air quality standards adopted by the board over the previous two calendar years.

(4) A summary of the results of research projects concluded during the previous two years, the status of current research projects, and the conduct of the research program pursuant to Section 39703.

(5) A summary of any actions taken by the state board to assume the powers of districts under Section 39808.

(6) A summary of the effects of any significant federal actions over the previous two years which have affected state air quality or air quality programs.

(7) A summary of the status of the state implementation plan for achieving and maintaining ambient air quality standards.

(8) A summary of the state board's actions in the previous two calendar years to control toxic air pollutants pursuant to Chapter 3.5 (commencing with Section 39650).

(9) A report on acid deposition prepared pursuant to Section 39909.

(10) A summary of actions of the state board in controlling emissions from motor vehicles during the previous two-year period.

(11) A summary of significant actions taken by districts to control emissions from nonvehicular sources during the previous two-year period. This summary shall not include a district by district analysis for each district in the state, but shall include an overall analysis.

(12) A list of recommendations for legislation or administrative actions to resolve specific air quality problems in the state.

SEC. 2. Section 39703 of the Health and Safety Code is amended to read:

39703. The state board shall administer and coordinate all air pollution research funded, in whole or in part, with state funds. In discharging its responsibilities, the state board has all of the following duties and powers:

(a) Establish applied research objectives.

(b) Receive and review all air pollution research proposals.

(c) Recommend the initiation of specific air pollution research projects.

(d) Award contracts for air pollution research projects.

(e) Establish the administrative and review procedures necessary to carry out this section.

(f) Collect, validate, and disseminate educational information relating to air pollution.

SEC. 3. Section 39909 of the Health and Safety Code is amended to read:

39909. Not later than January 1, 1984, and annually thereafter, the state board, with the advice and participation of the state agency working group and the scientific advisory committee, shall prepare and submit a report to the Governor and the Legislature. The report shall be consolidated into the biennial report on alternate years and a final report shall be prepared and submitted not later than January 1, 1988.

The report shall include a description of activities undertaken pursuant to this chapter; the findings to date of the research and monitoring program, including the current levels, anticipated effects, and future trends of acid deposition in California; and further actions, if any are required, in addition to existing laws, adopted regulations, and ongoing research programs, to control or mitigate acid deposition and its potential adverse effects.

CHAPTER 903

An act to amend and supplement the Budget Act of 1984 by adding Items 3790-103-721 and 3790-497-721 thereto, relating to park and recreation facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Item 3790-103-721 is added to the Budget Act of 1984, to read:

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

3790-103-721—For grants to counties, cities, and districts, as defined, in Section 5096.144, pursuant to subdivisions (a) and (e) of Section 5096.151, of the Public Resources Code, Department of Parks and Recreation, payable and for project review from the Parklands Fund of 1980 20,000

Schedule:

(a) Projects in El Dorado County

(1) County of El Dorado, El Dorado Parks 20,000

Provisions:

1. Funds appropriated in this item shall be available for acquisition, development, rehabilitation, or any combination thereof, and are available for expenditure during the 1984–85, 1985–86, and 1986–87 fiscal years.

SEC. 2. Item 3790-497-721 is added to the Budget Act of 1984, to read:

3790-497-721—Reversions, Department of Parks and Recreation. As of the effective date of the act adding this item, the unencumbered balance of the appropriation provided in Item 379-101-721(c)(74), Budget Act of 1981, County of El Dorado, Shingle Springs Plaza Park, shall revert to the unappropriated surplus of the Parklands Fund of 1980.

SEC. 3. Sections 1 and 2 of this act shall become operative on July 1, 1984.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the development of urgently needed park and recreation facilities in the County of El Dorado, it is necessary that this act take effect immediately.

CHAPTER 904

An act to amend Sections 1660.6, 1660.7, and 1660.8 of the Vehicle Code, relating to first offender programs.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 1660.6 of the Vehicle Code is amended to read:

1660.6. The Governor's Intergovernmental Advisory Council on Alcohol, Drugs, and Traffic Safety shall conduct an evaluation, with component studies, of first offender programs. The council shall develop requests for proposals for the evaluation and shall report its findings to the Legislature on or before December 30, 1986. The council shall also complete and submit to the Legislature an interim report, on or before December 30, 1983, which summarizes the number of first offender programs by county, number of participants, cost per participant, and program design.

SEC. 1.5. Section 1660.6 of the Vehicle Code is amended to read:

1660.6. The members of the Governor's Intergovernmental Advisory Council on Alcohol, Drugs, and Traffic Safety shall be appointed by, and serve at the pleasure of, the Governor. The membership of the council shall include representatives of local community interests. The council shall conduct an evaluation, with component studies, of first offender programs. The council shall develop requests for proposals for the evaluation and shall report its findings to the Legislature on or before December 30, 1986. The council shall make information on first offender programs available to the State Department of Alcohol and Drug Programs for purposes of Section 1660.9.

SEC. 2. Section 1660.7 of the Vehicle Code is amended to read:

1660.7. (a) The evaluation required by Section 1660.6 shall be funded exclusively through fees paid for participation in first offender programs. On and after July 1, 1983, each person attending such a program, in addition to any other fees or fines, shall pay a fee to the county in an amount determined by the Office of Traffic Safety, as recommended by the Governor's Intergovernmental Advisory Council on Alcohol, Drugs, and Traffic Safety, to be sufficient to pay the costs of the evaluation, but not to exceed five dollars ($5). The fees collected pursuant to this subdivision shall be transferred to, and deposited in, the First Offender Program Evaluation Fund, which is hereby created in the General Fund. The moneys in the First Offender Program Evaluation Fund shall be available upon appropriation by the Legislature to pay the costs of the evaluation by the Governor's council and the administration of the fund by the Office of Traffic Safety.

(b) Any other fees charged by a county for participation in a first offender program pursuant to subdivision (b) of Section 23161 or subdivision (b) of Section 23181, shall not be used by the county as a revenue source for any other service. Except as provided in subdivision (a), a county may charge and receive from persons participating in a first offender program or from providers of the program only the actual cost of direct service, supervision, and regulation of the first offender program in that county and any other general county levies, including, but not limited to, taxes, assessments, service charges and fees, which are levied on all or other persons and businesses in the county pursuant to other provisions of law.

(c) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date.

SEC. 3. Section 1660.8 of the Vehicle Code is amended to read:

1660.8. The money in the First Offender Program Evaluation Fund shall be used exclusively for purposes of evaluating first offender programs and the administration of the fund, and may be spent only upon appropriation of the Legislature through the Budget Act.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed. Any moneys remaining in the fund and unencumbered at that time shall be transferred to the General Fund.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 1660.6 of the Vehicle Code proposed by both this bill and AB 3065. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 1660.6 of the Vehicle Code, and (3) this bill is enacted after AB 3065, in which case Section 1 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 905

An act to amend Sections 830.7 and 830.8 of the Penal Code, relating to peace officers.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for institutions of higher education, recognized under subdivision (a) of Section 94310 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities defined in Section 1250 of the Health and Safety Code which are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding permitting the exercise of that authority with the sheriff or chief of police within whose jurisdictions the facility lies.

(d) Employees of the California Department of Forestry designated by the Director of Forestry and approved by the Secretary of the Resources Agency.

SEC. 2. Section 830.8 of the Penal Code is amended to read:

830.8. (a) Federal criminal investigators are not California peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws provided that such investigators are engaged in the enforcement of federal criminal laws and exercise such arrest powers only incidental to the performance of their federal duties. Such investigators, prior to the exercise of such arrest powers, shall have been certified by their agency heads as having satisfied the training requirements of Section 832.

(b) Duly authorized federal employees who comply with the training requirements set forth in Section 832 are peace officers when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government, or on any street, sidewalk or property adjacent thereto, and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction the property is situated.

CHAPTER 906

An act to amend Section 44254 of the Education Code, relating to teacher credentialing.

[Approved by Governor September 5, 1984. Filed with Secretary of State September 6, 1984.]

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

SECTION 1. Section 44254 of the Education Code is amended to read:

44254. Emergency credentials may be issued in accordance with regulations adopted by the commission.

The terms, reasons, and justification for the issuance of such credentials shall be regularly reported to the Legislature, as well as their number, kind, the number of emergency credentials issued to individuals who do not have baccalaureate degrees and other pertinent information. Emergency credentials shall only be authorized when insufficient certified teachers are available.

An emergency credential may not be issued unless the holder has received a baccalaureate degree from a regionally accredited institution.

In the event that a school district or a county office of education, after having solicited and reviewed applications for teaching positions, finds that there is an insufficient number of candidates for emergency credentials who hold baccalaureate degrees, the governing board of the district or the county board of education may, until January 1, 1987, make a declaration of this insufficiency. The declaration shall be made in the form of a motion adopted by the governing board of the district or the county board of education at a regularly scheduled meeting of the governing board of the district or the county board of education and shall be entered into the minutes of the meeting. The commission may issue emergency credentials for service in districts and county offices of education adopting this declaration to individuals who have completed at least 90 units of college level coursework at an accredited institution.

Emergency credentials for pupil personnel services shall not be valid for the purpose of determining pupil eligibility for placement in special education classes or programs.

With the exception of this chapter, any reference in any law or regulation to a "provisional credential" shall be deemed to mean an "emergency credential."

CHAPTER 907

An act to amend Section 1680 of the Business and Professions Code, relating to dentistry.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising of any free dental work, or free examination.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as

defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days or more than 180 days or by both such fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient whose death is causally related to a dental procedure performed by him or her.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2.

CHAPTER 908

An act to amend Sections 17922, 17958.5, and 17958.7 of, and to repeal and add Section 17958 of, the Health and Safety Code, relating to building standards.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 17922 of the Health and Safety Code is amended to read:

17922. (a) Except as otherwise specifically provided by law, the building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and the other rules and regulations, which are contained in Title 24 of the California Administrative Code, adopted, amended, or repealed from time to time pursuant to this chapter shall be adopted by reference, except that the building standards and rules and regulations shall include any additions or deletions made by the department. The building standards and rules and regulations shall impose substantially the same requirements as are contained in the most recent editions of the following uniform industry codes as adopted by the organizations specified:

(1) The Uniform Housing Code of the International Conference of Building Officials, except its definition of "substandard building."

(2) The Uniform Building Code of the International Conference of Building Officials.

(3) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(4) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(5) The National Electrical Code of the National Fire Protection Association. In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for publication in the State Building Standards Code and in promulgating other regulations, the department shall consider local conditions and any amendments to the uniform codes referred to in this section. Except as provided in Part 2.5 (commencing with Section 18901), in the absence of adoption by regulation, the most recent editions of the uniform codes referred to in this section shall be considered to be adopted one year after the date of publication of the uniform codes.

(b) Except as provided in Section 17959.5, local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are hereby specifically and entirely reserved to the local jurisdictions

notwithstanding any requirements found or set forth in this part.

(c) Regulations other than building standards which are adopted, amended, or repealed by the department, and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standards Code and the other rules and regulations of the department or alternative local standards adopted pursuant to subdivision (b) of Section 17920.7 or 17958.5 and does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements for new buildings or structures specified in this part, or in building standards published in the State Building Standards Code, or in the other rules and regulations adopted pursuant to this part. However, the additions and alterations shall not cause the building to exceed area or height limitations applicable to new construction.

(d) Regulations other than building standards which are adopted by the department and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 governing alteration and repair of existing buildings shall permit the use of alternate materials, appliances, installations, devices, arrangements, or methods of construction if the material, appliance, installation, device, arrangement, or method is, for the purpose intended, at least the equivalent of that prescribed in this part, the building standards published in the State Building Standards Code, and the rules and regulations promulgated pursuant to the provisions of this part in performance, safety, and for the protection of life and health. Regulations governing abatement of substandard buildings shall permit those conditions prescribed by Section 17920.3 which do not endanger the life, limb, health, property, safety, or welfare of the public or the occupant thereof.

(e) No local enforcement agency may prohibit the use of materials, appliances, installations, devices, arrangements, or methods of construction specifically permitted by the department to be used in the alteration or repair of existing buildings, but such materials, appliances, installations, devices, arrangements, or methods of construction may be specifically prohibited by local ordinance as provided pursuant to Section 17958.5.

(f) No local ordinance may permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the

violation is a misdemeanor.

SEC. 2. Section 17958 of the Health and Safety Code is repealed.

SEC. 3. Section 17958 is added to the Health and Safety Code, to read:

17958. Except as provided in Sections 17958.8 and 17958.9, any city or county may make changes in the provisions adopted pursuant to Section 17922 and published in the State Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the State Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose those requirements or make changes or modifications in those requirements upon express findings, the provisions published in the State Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it and shall become effective 180 days after publication by the commission. Amendments, additions, and deletions to the State Building Standards Code adopted by a city or county pursuant to Section 17958.7, together with all applicable portions of the State Building Standards Code, shall become effective 180 days after publication of the State Building Standards Code by the State Building Standards Commission.

SEC. 4. Section 17958.5 of the Health and Safety Code is amended to read:

17958.5. (a) Except as provided in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city or county may make such changes or modifications in the requirements contained in the provisions published in the State Building Standards Code and the other regulations adopted pursuant to Section 17922 as it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions.

For purposes of this subdivision, a city and county may make such reasonably necessary modifications to the requirements, adopted pursuant to Section 17922, contained in the provisions of the code and regulations on the basis of local conditions.

(b) On or before October 1, 1981, and each October 1 thereafter, the department shall transmit a report to the State Building Standards Commission on the modifications and changes made by cities and counties to the building standards published in the State Building Standards Code and the other regulations of the commission. The report shall include a summary by the department of the reasons cited as the necessity for the modifications and changes. The report required pursuant to this section shall apply to modifications and changes made after January 1, 1980.

This subdivision shall remain in effect only until January 1, 1986, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 5. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. (a) Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological or topographical conditions. Such a finding shall be available as a public record. A copy of such findings, together with the modification or change expressly marked and identified to which each such finding refers, shall be filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department.

(b) The department may reject a modification or change filed by the governing body of a city or county if no finding was submitted.

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

SEC. 7. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 909

An act to add Section 11752.5 to the Insurance Code, and to amend Section 4603.2 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 11752.5 is added to the Insurance Code, to read:

11752.5. (a) Subject to subdivision (b), a licensed rating organization shall make available any policy information contained in its records to the following:

(1) The Department of Industrial Relations.

(2) Any other governmental agency if the Insurance Commissioner, after consultation with the licensed rating organization, approves the release of the policy information requested to the agency.

(b) The Department of Industrial Relations and any other governmental agency shall specify to the licensed rating organization, in writing, the information requested, that the information requested is to be used to facilitate the agency's performance of its constitutional or statutory duties, and that the information received will not be released to others, except in the discharge of a specific statutory or constitutional duty, or published without the prior written consent of the licensed rating organization. In addition, if the Insurance Commissioner's approval is required for the release of the policy information requested, a written copy of the approval shall be submitted to the licensed rating organization.

(c) As used in this section, "policy information" means information which is contained in a workers' compensation policy, including, but not limited to, the identity and address of the employer, the identity of the insurer, the policy number, and the policy period.

(d) Information obtained by a governmental agency pursuant to this section shall be confidential and not subject to public disclosure under any other law of this state.

(e) No licensed rating organization or member thereof, or member of a committee of a licensed rating organization when acting in its capacity as a member of the committee, or officer or employee of a licensed rating organization, when acting within the scope of his or her employment, shall be liable to any person for injury, personal or otherwise, or damages caused or alleged to have been caused, either directly or indirectly, by the disclosure of information to a governmental agency pursuant to this section, or for the accuracy or completeness of the information so disclosed.

(f) This section shall not be construed as implying the existence of liability in circumstances not defined in this section, nor as implying a legislative recognition that, except for enactment of this section, a liability has existed or would exist in the circumstances stated in this section.

(g) This section shall not be construed as limiting any authority of a licensed rating organization to disclose information contained in its records to others.

SEC. 2. Section 4603.2 of the Labor Code is amended to read:

4603.2. Upon selecting a physician pursuant to Section 4600, the employee or physician shall forthwith notify the employer of the name and address of the physician. The physician shall submit a report to the employer within five working days from the date of the initial examination and shall submit periodic reports at such intervals as may be prescribed by rules and regulations adopted by the administrative director. The employer shall make payment for the services of the physician after receipt of the required reports.

CHAPTER 910

An act to amend Section 41601.5 of the Education Code, relating to school districts, and making an appropriation therefor.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 41601.5 of the Education Code is amended to read:

41601.5. For any fiscal year, a school district with an increase in the number of units of average daily attendance from the second principal apportionment to the annual apportionment may request the county superintendent of schools to adjust the district's revenue limit or block grant by utilizing the units of average daily attendance for the annual apportionment in lieu of the units of average daily attendance for the second principal apportionment. To qualify for this adjustment, the increase in the units of average daily attendance between the two periods shall meet the following requirements:

(a) The increase shall be equal to either paragraph (1) or (2):

(1) Equal to or greater than 2 percent.

(2) For the 1984–85 fiscal year and each fiscal year thereafter, for school districts with less than 2,501 units of average daily attendance, equal to or greater than 10 units of average daily attendance.

(b) The increase shall be attributable to pupils of migrant agricultural workers.

SEC. 2. The sum of one hundred sixty thousand dollars ($160,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to school districts in the 1984–85 fiscal year pursuant to Section 41601.5 of the Education Code.

SEC. 3. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to school districts for the entire 1984–85 fiscal year. For the purpose of implementing the changes required by Section 1 of this act, the Superintendent of Public Instruction and other public officers shall take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund or other public funds.

CHAPTER 911

An act to amend Sections 2211, 2212, 2214, 2215, 2215.5, 2240, 2245, 2248, 2270, 2272, 2274, 2275, 2278, 2281, 2283, 2283.5, 2291.1, 2291.2, 2291.4, 2300, 2303, 2307, 2309, 2330, 2803, 2822.5, 2829, 2851, 2855, 2857, 2858, 2861.7, 2862, 2863, 2864.7, 2865, 2865.5, 2866, 2868, 2870, 2871.5, 2872, and 2876 of, to add Sections 2284, 2291, 2292, 2294, 2302, 2331, 2332, 2800.5, 2804, 2835, 2862.5, 2864, 2871, 2871.8, 2871.9, and 2901 to, to repeal and add Article 1 (commencing with Section 2200) of Chapter 5 of Division 3 of, to repeal Sections 2271, 2284, 2291, 2292, 2301, 2302, 2302.1, 2800.5, 2864, 2871, and 2875 of, and to repeal and add Section 2871.7 of, the Health and Safety Code, relating to mosquito abatement and vector control districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Article 1 (commencing with Section 2200) of Chapter 5 of Division 3 of the Health and Safety Code is repealed.

SEC. 2. Article 1 (commencing with Section 2200) is added to Chapter 5 of Division 3 of the Health and Safety Code, to read:

Article 1. General Provisions

2200. Except where the context otherwise requires, the following definitions shall govern construction of this chapter:

(a) "Board" or "district board" refers to the board of trustees of a district.

(b) "City" includes a city and county.

(c) "District" refers to any mosquito abatement district or vector control district formed pursuant to this chapter or pursuant to any law which it supersedes.

(d) "Property" includes water, and the person or agency claiming ownership, title, or right to water or who controls the diversion, delivery, conveyance, or flow of water is responsible for abatement of public nuisances, as specified in this chapter or Chapter 8 (commencing with Section 2800), which are caused by or as a result of diversion, delivery, conveyance, or control.

(e) "Public nuisance" means any of the following:

(1) Any breeding place for mosquitoes, flies, or other vectors of public health importance which exists by reason of any use made of the land on which it is found, or of any artificial change in its natural condition. Presence of immature arthropods of public health importance shall constitute prima facie evidence that a place is a breeding place for arthropods.

(2) Water which is a breeding place for mosquitoes, flies, or other

arthropods of public health importance.

(3) The presence of rodents or evidence of rodent activity, such as rodent droppings, trails, or evidence of feeding activity.

(f) "Vector" means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, other insects, ticks, mites, and rats, but not including any domesticated animal.

2201. (a) Every notice required by this chapter to be published shall be published in a daily, weekly, or semiweekly newspaper. If there is no daily, weekly, or semiweekly newspaper published within the district or within a subdivision of the district or other territory in which it is required to be published, the notice shall be posted for the length of time required for its publication in three public places of the district, subdivision, or other territory, as the case may be.

(b) A district may be organized and managed as provided in this chapter, and is authorized to exercise the powers expressly granted or necessarily implied by this chapter.

(c) No district formed or proposed to be formed under this chapter shall be subject to the District Investigation Law of 1933 provided for in Chapter 2 (commencing with Section 58500) of Division 2 of Title 6 of the Government Code.

SEC. 3. Section 2211 of the Health and Safety Code is amended to read:

2211. A petition to form a district may consist of any number of separate instruments. It shall be presented at a regular meeting of the board of supervisors of the county in which the greater portion of the proposed district is located. The petition shall be signed by registered voters residing in the proposed district equal in number to 10 percent of the votes cast for Governor at the last preceding gubernatorial election.

Before a city can be included in the proposed district, its governing body shall request the inclusion of the city by resolution, duly authenticated.

SEC. 4. Section 2212 of the Health and Safety Code is amended to read:

2212. The petition shall set forth and describe the boundaries of the proposed district, and shall request that it be organized as a mosquito abatement district or vector control district. The text of the petition shall state the basis on which the property in the district shall be taxed or assessed for district purposes . The petition may include a plan for zones of benefit or any other proposal which would provide equity in financing the district's purposes. The petition shall be published, for at least two weeks before the time it is to be presented, in the county where the petition is presented, and in each city a portion of which is included in the proposed district.

SEC. 5. Section 2214 of the Health and Safety Code is amended to read:

2214. When signatures are contained upon more than one

instrument, only one copy of the petition need be published. No more than five of the names attached to the petition need appear in the publication of the petition and notice, but the number of signers shall be stated.

SEC. 6. Section 2215 of the Health and Safety Code is amended to read:

2215. The publication of the petition shall include a notice of the time and place of the meeting of the board of supervisors when the petition will be considered, stating that all persons interested may appear and be heard.

SEC. 7. Section 2215.5 of the Health and Safety Code is amended to read:

2215.5. The districts may also be organized upon the adoption by the board of supervisors of a resolution of intention so to do, in lieu of the procedure provided by this article for the presentation of petitions. In the event the board of supervisors adopts a resolution of intention, the resolution shall follow the procedures established in Sections 2212 and 2215.

SEC. 8. Section 2240 of the Health and Safety Code is amended to read:

2240. Within 30 days after the filing with the Secretary of State of the certified copy of the order of formation, a governing board of trustees for the district shall be appointed. The district board shall be appointed as follows:

(a) If the district is situated in one county only and consists wholly of unincorporated territory, five members shall be appointed by the board of supervisors of the county.

(b) If the district is situated entirely in one county and includes both incorporated and unincorporated territory, one member may be appointed from the district at large by the board of supervisors of the county, and one member may be appointed from each city, the whole or part of which is situated in the district, by the governing body of the city. If the district board created consists of less than five members, the board of supervisors shall appoint from the district at large enough additional members to make a board of five members.

(c) If the district is situated in two or more counties and is comprised wholly of unincorporated territory, one member shall be appointed from each county or portion of a county situated in the district by the board of supervisors. If the district board created consists of less than five members, the board of supervisors of the county in which the greater portion of the district is situated shall appoint from the district at large enough additional members to make a board of five members.

(d) If the district is situated in two or more counties and consists of both incorporated and unincorporated territory, one member may be appointed by the board of supervisors of each of the counties from that portion of the district lying within its jurisdiction, and one member may be appointed from each city, a portion of which is situated in the district, by the governing body of the city. If the board

created consists of less than five members, the board of supervisors in which the greater portion of the district is situated shall appoint from the district at large enough additional members to make a board of five members.

(e) At any time after the appointment of the initial district board of trustees, the board of supervisors of any county having territory in whole or in part in a district, may at the written request of the existing district board of trustees, increase or decrease the number of members of the board of trustees representing unincorporated territory in the district. The written request of the district board of trustees shall specify the number of members and the region or regions in the unincorporated territory for which an increase or decrease is requested. However, the district board of trustees shall, under no circumstances, consist of less than five members, nor shall the number of members representing unincorporated territory in the entire district exceed five members.

SEC. 8.5. Section 2245 of the Health and Safety Code is amended to read:

2245. (a) The members of the first board in any district shall classify themselves by lot at their first meeting so that either of the following shall occur:

(1) If the total membership is an even number, the terms of one-half the members shall expire at the end of one year, and the terms of the remainder at the end of two years, from the second day of the calendar year next succeeding their appointment.

(2) If the total membership is an odd number, the terms of a bare majority of the members shall expire at the end of one year, and the terms of the remainder at the end of two years, from the second day of the calendar year next succeeding their appointment.

(b) The term of each subsequent member shall be two years from and after the expiration of the term of his predecessor.

(c) The first term of any member shall not exceed two years. Each subsequent consecutive reappointment, if any, may be for a term of two or four years, at the discretion of the appointing power.

SEC. 9. Section 2248 of the Health and Safety Code is amended to read:

2248. The members of the district board shall serve without compensation, but the necessary expenses of each member for actual traveling in connection with meetings or business of the board shall be allowed and paid. In lieu of expenses, the district board may by resolution provide for the allowance and payment to the members of the board of a sum not exceeding fifty dollars ($50) per month per member for expenses incurred in attending business meetings of the board.

SEC. 10. Section 2270 of the Health and Safety Code is amended to read:

2270. The district board may do all of the following:

(a) Take all necessary or proper steps for the control of mosquitoes, flies, or other vectors, either in the district or in territory

not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors may disperse from the territory into the district.

(b) Abate as nuisances all standing water and other breeding places for mosquitoes, flies, or other vectors, either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors from the territory disperse into the district.

(c) Purchase the supplies and materials, employ the personnel and contract for the services which may be necessary or proper in furtherance of the objects of this chapter.

(d) If necessary or proper in the furtherance of the objects of this chapter, build, construct, repair, and maintain the necessary dikes, levees, cuts, canals, or ditches upon any land and acquire by purchase, condemnation, or by other lawful means, in the name of the district, any lands, rights-of-way, easements, property, or material necessary for any of those purposes.

(e) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the use or taking of property for dikes, levees, cuts, canals, or ditches.

(f) Enter upon any property without hinderance or notice, either within the district or so reasonably adjacent thereto that vectors may disperse into the district, for any of the following purposes:

(1) To inspect to ascertain the presence of vectors or their breeding places.

(2) To abate public nuisances in accordance with this article, either directly or by giving notice to the property owner to abate a nuisance.

(3) To ascertain if a notice to abate vectors has been complied with.

(4) To treat property with appropriate physical, chemical, or biological control measures.

(g) Sell or lease any service, land, rights-of-way, easements, property or material acquired by the district. Equivalent properties may be exchanged, if it is in the best interests of the district to do so.

(h) Borrow money in any fiscal year and repay it in the same or in the next ensuing fiscal year. The amount borrowed in any fiscal year shall not exceed fifteen cents ($0.15) on each one hundred dollars ($100) of assessed valuation of property in the district.

(i) Issue warrants payable at the time stated in the warrant to evidence the obligation to repay money borrowed or any other obligation incurred by the district. Warrants so issued shall draw interest at a rate fixed by the board not to exceed 5 percent per year, payable annually or semiannually as the board may prescribe.

(j) Provide a civil service system for any or all employees of the district.

(k) Assess civil penalties, as determined in the discretion of the board, but not to exceed five hundred dollars ($500) per day for each day that a notice or hearing order to abate a nuisance has not been

complied with.

Any sum which may be collected shall become part of the district's general fund to be used solely for vector control purposes.

(*l*) Levy, by resolution or ordinance, a service charge or benefit assessment against any or all parcels of land within the district to pay for the cost of inspection and protection against mosquitoes, flies, or other vectors. The schedule of charges shall be made, reviewed, and adopted annually after notice and hearing in connection with the schedule. Following the hearing, the board may classify parcels of property according to their use in relation to the cost of vector control. The board may bill for the charges annually or more frequently. The charges shall be collected and paid by the county in the same manner as property taxes by the county. The service charge shall be reasonably related to the district's cost for providing the inspection or protection and shall not be deemed a tax of any kind. Any sum collected shall be used solely for purposes of vector control. This subdivision only applies to a district formed prior to January 1, 1985, or any district authorized to impose taxes under Section 2212 or 2215.5.

(m) Set the tax or assessment rates which are necessary to carry out the purposes of this article.

(n) Do any and all things necessary for, or incident to, the powers granted by, and to carry out the objects specified in, this chapter.

SEC. 11. Section 2271 of the Health and Safety Code is repealed.

SEC. 12. Section 2272 of the Health and Safety Code is amended to read:

2272. A public nuisance may be abated in any action or proceeding by any remedy provided by this chapter or any other law.

SEC. 13. Section 2274 of the Health and Safety Code is amended to read:

2274. Whenever a nuisance specified in this chapter exists upon any property, either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors from the territory disperse into the district, the district board may notify in writing the owner or party in possession, or the agent of either, of the existence of the nuisance.

SEC. 14. Section 2275 of the Health and Safety Code is amended to read:

2275. The notice shall do all of the following:

(a) State the finding of the district that a public nuisance exists on the property and the location of the nuisance on the property.

(b) Direct the owner or party in possession to take appropriate steps to eliminate, or prevent the recurrence of, the nuisance.

(c) Inform the owner or party in possession that failure to comply with the requirements of subdivision (b) shall subject the owner or party in possession to civil penalties of not more than five hundred dollars ($500) per day for each day the nuisance continues after the time specified for the abatement of the nuisance in the notice.

(d) Inform the owner or party in possession that before complying with the requirements of the notice, the owner or party in possession may appear at a hearing before the district board at a time and place stated in the notice.

SEC. 15. Section 2278 of the Health and Safety Code is amended to read:

2278. The notice may be served by any person authorized by the district board in the same manner as a summons in a civil action, or it may be served by registered mail or by personal delivery with proof of service.

SEC. 16. Section 2281 of the Health and Safety Code is amended to read:

2281. Any recurrence of the nuisance may be deemed to be a continuation of the original nuisance.

SEC. 18. Section 2283 of the Health and Safety Code is amended to read:

2283. All or part of the cost of abatement of a nuisance shall be repaid to the district by the owner of the property, as determined by the district board. However, the owner shall not be required to pay the cost unless, either prior or subsequent to the abatement by the district, a hearing is held by the district board, the property owner is afforded an opportunity to be heard, and it is determined by the district board that a nuisance actually exists, or existed prior to abatement by the district. The district board may use a civil penalty assessment in lieu of charging for actual costs to abate the nuisance, or it may include reasonable costs for abatement as a part of a civil penalty assessment.

SEC. 19. Section 2283.5 of the Health and Safety Code is amended to read:

2283.5. When any nuisance specified in this chapter is found to exist on any property subject to the control of any state or local agency, the district shall notify the state or local agency of the existence of the nuisance. Sections 2275, 2277, 2278, 2280, 2281, and 2282 shall govern the contents of the notice and the manner of serving it, the right of the state or local agency to a hearing before the board, the hearing before the board, and the power of the district to abate the nuisance if it is not abated by the state or local agency. If the state or local agency determines that the order to prevent recurrence of the breeding specified in the notice to abate the nuisance is excessive or inappropriate for the intended use of the land, or if the state or local agency determines that a nuisance, as specified in Section 2200, does not exist, the agency may appeal the decision of the board to the State Director of Health Services within 10 days subsequent to the hearing. The director shall decide the matters on appeal and convey his or her decision to the agency and district within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive. If the control of the nuisance is performed by the district, the cost for the control is a charge against, and shall be paid from, the maintenance fund or from

other funds for the support of the state or local agency.

Any state or local agency and a district may enter into contractual agreements to provide control of nuisances as defined in this chapter. The authority which is granted by this paragraph is in addition to any other authority which a state agency and a district may have to enter into contractual agreements for the control of vectors.

As used in this section, "state agency" means an agency specified in Section 11000 of the Government Code, and "local agency" means a city, county, city and county, district, or other public corporation.

SEC. 20. Section 2284 of the Health and Safety Code is repealed.

SEC. 21. Section 2284 is added to the Health and Safety Code, to read:

2284. Upon the failure of the property owner or person in possession to pay the cost to the district for all sums expended by the district in abating a nuisance or preventing its recurrence and all civil penalties, the costs shall become a lien upon the property on which the nuisance is abated, or its recurrence prevented, when notice of the lien is filed and recorded as provided in Section 2285. However, if the property has been conveyed prior to the recordation of the lien, the lien shall not attach to the real property, but shall remain the debt of the person who owned the land at the time the costs were incurred, and the debt may be recovered in a civil action by the district board against the debtor.

SEC. 22. Section 2291 of the Health and Safety Code is repealed.

SEC. 23. Section 2291 is added to the Health and Safety Code, to read:

2291. Any district may conduct vector surveillance and control projects for any part of the district.

SEC. 24. Section 2291.1 of the Health and Safety Code is amended to read:

2291.1. The district board shall determine which of the projects authorized by Section 2291 shall be carried out and shall determine, as to each project, that it is one of the following:

(a) For the common benefit of the district as a whole.

(b) For the benefit of two or more zones, which may be referred to as participating zones.

(c) For the benefit of a single zone.

SEC. 25. Section 2291.2 of the Health and Safety Code is amended to read:

2291.2. (a) (1) The district board may institute projects for single zones and joint projects for two or more zones, for the financing and execution of vector surveillance and control projects of common benefit to the zone or participating zones.

(2) Before beginning a project, the district board shall adopt a resolution specifying its intention to undertake the project, together with estimates of the cost to be borne by the particular zone. In the case of participating zones, the resolution shall specify the proportionate cost to be borne by each of the participating zones and fix a time and place for public hearing on the resolution. The

resolution shall contain a general statement of the objectives of any surveillance or control project.

(3) Notice of the hearing shall be given by publication once a week for two consecutive weeks prior to the hearing. The last publication of the notice shall be at least seven days before the hearing, in a newspaper of general circulation, circulated in the zone or each of the participating zones, if there is a newspaper of general circulation. If there is no newspaper, then notice shall be posted for two consecutive weeks prior to the hearing in five public places designated by the district board, in the zone or in each of the participating zones. The notice shall designate a public place in the zone or in each of the participating zones where a copy or copies of the resolution may be seen by any interested person. The resolution shall be posted in each of the public places designated in the notice at least two weeks prior to the hearing.

(b) At the time and place fixed for the hearing, or any time to which the hearing may be continued, the district board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing, the district board may abandon the proposed project or proceed with it, unless prior to the conclusion of the hearing, a written protest against the proposed project signed by persons representing one-half or more of the assessed valuation of the property within the zone, or within any of the participating zones for which the project was initiated, is filed with the board. If a written protest is filed with the board, further proceedings relating to the project shall be suspended for not less than six months following the date of the conclusion of the hearing, or the proceeding may be abandoned in the discretion of the district board.

(c) The last equalized assessment roll of the county or counties within which a mosquito abatement district lies next preceding the filing of the protest shall be prima facie evidence as to the ownership of property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation of property within the zone or within any of the participating zones for which the project was initiated.

(d) The district board may inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as being entitled to sign. Unless satisfactory evidence is furnished, the right to sign the protest may be denied.

SEC. 26. Section 2291.4 of the Health and Safety Code is amended to read:

2291.4. In addition to the powers enumerated in Article 5 (commencing with Section 2300), the board shall have power, in any year, to do any of the following:

(a) To levy taxes or assessments in each or any of the zones and participating zones to pay the cost and expenses of carrying out the projects within, or on behalf of, the respective zones, according to the benefits derived or to be derived by the respective zones, by a

levy or assessment upon all property within a zone or participating zone, including land, improvements, and personal property.

It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

(b) To levy taxes or assessments by the method authorized by subdivision (a) in each or any of the zones, according to the special benefits derived or to be derived by the specific properties therein, to pay the cost and expenses of carrying out any of the projects within or on behalf of the respective zone or zones.

SEC. 27. Section 2292 of the Health and Safety Code is repealed.

SEC. 28. Section 2292 is added to the Health and Safety Code, to read:

2292. Any person who restrains, hinders, obstructs, or threatens any officer or employee of a district in the performance of that person's duties, or any person who interferes with any work done by, or under the direction of, the district is guilty of a misdemeanor.

SEC. 30. Section 2294 is added to the Health and Safety Code, to read:

2294. In case of dispute between government agencies on the need, or the methods and materials used, to abate or prevent a public health nuisance under this chapter, the matter shall be subject to appeal to the State Director of Health Services within 10 days. The director shall take testimony on the issue, and shall decide the matter on appeal and convey his or her decision to the parties within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive.

SEC. 31. Section 2300 of the Health and Safety Code is amended to read:

2300. On or before August 1 of each year, the district board of each district shall prepare a written estimate of the amount of money necessary for the district's purposes during the next ensuing fiscal year. The amount of money necessary for the district's purposes may include a general reserve for the purpose of defraying district expenses between the beginning of a fiscal year and the time of distribution of tax receipts in a fiscal year. The general reserve shall not exceed 60 percent of the estimated expenditures for a fiscal year.

The amount of money necessary for the district purposes may also include an unappropriated reserve for the purpose of defraying unusual and unanticipated expenses.

Expenditures from the unappropriated reserve may be made only upon an affirmative vote of four-fifths of the members of the district board. The emergency fund shall not exceed 25 percent of the estimated expenditures for a fiscal year.

SEC. 32. Section 2301 of the Health and Safety Code is repealed.

SEC. 33. Section 2302 of the Health and Safety Code is repealed.

SEC. 34. Section 2302 is added to the Health and Safety Code, to read:

2302. The county auditor shall allocate to a district its share of

property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 35. Section 2302.1 of the Health and Safety Code is repealed.

SEC. 36. Section 2303 of the Health and Safety Code is amended to read:

2303. Whenever it appears to the district board that the amount of funds required during an ensuing fiscal year will exceed the amount available, the district board may call an election to submit to the electors of the district the question of whether a special tax shall be voted for raising the additional funds pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

SEC. 37. Section 2307 of the Health and Safety Code is amended to read:

2307. The district board shall canvass the votes cast at the election, and, if two-thirds of the votes cast are in favor of the imposition of the tax, shall report the result to the board of supervisors of the county in which the district is situated, stating the additional amount of money required to be raised. If the district is in more than one county, the additional amount shall be prorated for each county by the district board in the same way that the district's original total estimate of funds is prorated. The district board shall furnish the board of supervisors and auditor of each county a written statement of the apportionment for that county.

SEC. 38. Section 2309 of the Health and Safety Code is amended to read:

2309. All taxes and assessments levied under this chapter shall be computed and entered on the county assessment-roll by the county auditor and collected at the same time and in the same manner as other county taxes. When collected, the taxes and assessments shall be paid into the county treasury for the use of the district.

SEC. 39. Section 2330 of the Health and Safety Code is amended to read:

2330. (a) Any territory lying contiguous to a district may be annexed to the district. Noncontiguous territory may be annexed to a district if the board of supervisors of each county in which a portion of the territory proposed to be annexed is situated determines, by resolution, that the portion is within a reasonable operational distance of the district.

(b) The provisions of Sections 2291 to 2291.4, inclusive, may be used during the annexation procedures to designate the territory to be annexed as one or more zones of benefit, and the provisions of subdivision (*l*) of Section 2270 may be used to fund vector control in any territory so annexed.

SEC. 40. Section 2331 is added to the Health and Safety Code, to read:

2331. Prior to the annexation of any territory, the district board shall obtain the consent, by resolution, from the board of supervisors

of each county in which territory is proposed to be annexed and, by resolution, from the city council of each city in which territory is proposed to be annexed.

SEC. 41. Section 2332 is added to the Health and Safety Code, to read:

2332. The procedures for authorizing and financing control projects under Sections 2291.1 to 2291.4, inclusive, may be used concurrently with, and as the procedures for, annexation of any territory authorized under Section 2331.

SEC. 42. Section 2800.5 of the Health and Safety Code is repealed.

SEC. 43. Section 2800.5 is added to the Health and Safety Code, to read:

2800.5. As used in this chapter, "public nuisance" includes, but is not limited to, both of the following:

(a) Any breeding place or place of growth of a pest for which a district may be initiated under Section 2822, which exists by reason of any use made of the land on which it is found, or which exists by reason of any artificial change in the natural condition of the land on which it is found. The presence of any immature stages of any pest, or the rooted stages of any plant pest, shall constitute prima facie evidence the place is a breeding place for the pest.

(b) Water which is a breeding place for any pest for which a district may be initiated under Section 2822.

SEC. 44. Section 2803 of the Health and Safety Code is amended to read:

2803. Any person who restrains, hinders, obstructs, or threatens any officer or employee of a district in the performance of that person's duties as an officer or employee, or any person who interferes with any work done by, or under the direction of, the district, is guilty of a misdemeanor.

SEC. 45. Section 2804 is added to the Health and Safety Code, to read:

2804. In case of a dispute between governmental agencies on the need, or the methods and materials to be used, to abate or prevent a public nuisance under this chapter, the matter shall be subject to appeal to the State Director of Health Services within 10 days from the date the dispute arises. The director shall take testimony on the issue, shall decide the matter on appeal, and shall convey his decision to the parties within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive.

SEC. 46. Section 2822.5 of the Health and Safety Code is amended to read:

2822.5. The petition shall state the basis on which the property in the district shall be taxed for district purposes. The petition may include a plan for zones of benefit or other proposal which would provide equity in financing the district's purposes.

SEC. 47. Section 2829 of the Health and Safety Code is amended to read:

2829. At the time of the hearing, or at any time to which it may

be adjourned, the board of supervisors shall hear and consider all competent and relevant testimony or evidence offered in support of, or in opposition to, the formation of the district, and the proposed method of financing.

SEC. 48. Section 2835 is added to the Health and Safety Code, to read:

2835. Upon a petition adopted by a four-fifths vote of the district board, or upon its own motion following the notice the board of supervisors deems sufficient and a public hearing, the board of supervisors, may, with the concurrence of the district board, add to, or delete from, the list of pests which the district may control. The board of supervisors at the hearing may also consider, and make changes in, the method of district taxation, as authorized by Section 2822.5, as though a new district were being formed.

SEC. 49. Section 2851 of the Health and Safety Code is amended to read:

2851. The members of the district board shall hold office at the pleasure of the board of supervisors. They shall serve without compensation, but shall be allowed their necessary traveling and other expenses incurred in performance of their official duties. In lieu of expenses, the district board may, by resolution, provide for the allowance and payment to each member of the board of a sum not exceeding fifty dollars ($50) as expenses incurred in attending each business meeting of the board.

SEC. 50. Section 2855 of the Health and Safety Code is amended to read:

2855. The district board may do all of the following:

(a) Purchase supplies and other personal property.

(b) Employ necessary labor.

(c) Acquire by purchase, condemnation, or otherwise, in the name of the district, any lands, rights-of-way, easements, or other real property necessary for the district.

(d) Sell or lease any lands, rights-of-way, easements, material, or other property, real or personal, acquired by the district.

(e) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this chapter or of powers incident to those powers.

(f) Sue and be sued.

(g) Enter upon, without hindrance or notice, any property, either within the district or so reasonably adjacent that pests may disperse into the district, for any of the following purposes:

(1) To inspect to ascertain the presence of pests or their breeding places.

(2) To abate public nuisances in accordance with this article through direct control or through notice to the property owner to abate the public nuisance.

(3) To ascertain if a notice to abate a public nuisance has been complied with.

(4) To treat the property with any physical, chemical, or biological control measures deemed appropriate by the district board.

(h) Assess civil penalties, as determined in the discretion of the district board, but not to exceed five hundred dollars ($500) per day for each day that a notice or hearing order to abate a nuisance has not been complied with.

(i) Exercise the powers authorized by Section 2270 if the pests the district is empowered to control fall within the meaning of "vector," as defined in subdivision (f) of Section 2200.

(j) Do everything necessary to carry out the powers conferred by this chapter and carry out the objects of the formation of the district.

SEC. 51. Section 2857 of the Health and Safety Code is amended to read:

2857. Whenever a nuisance exists upon any property, either in the district or in territory not in the district but so situated with respect to the district that pests from the territory migrate into, or otherwise encroach upon, the district, the district board may notify in writing the owner or party in possession, or the agent of either, of the existence of the nuisance. The contents of the written notice shall conform to the requirements of Section 2858.

SEC. 52. Section 2858 of the Health and Safety Code is amended to read:

2858. The notice required by Section 2857 shall include all of the following:

(a) State the finding of the district that a public nuisance exists on the property and the location of the nuisance on the property.

(b) Direct the owner or party in possession to abate the nuisance within a specified time by destroying the pests which are present.

(c) Direct the owner or party in possession to perform, within a specified time, any work necessary to prevent the recurrence of the pests in the places specified in the notice.

(d) Inform the owner or party in possession that failure to comply with the requirements of subdivision (b) shall subject the owner or party in possession to civil penalties of not more than five hundred dollars ($500) per day for each day the nuisance continues after the time specified for the abatement of the nuisance in the notice.

(e) Inform the owner or party in possession that before complying with the requirements of the notice, the owner or party in possession may appear at a hearing before the district board at a time and place stated in the notice.

The notice shall be served upon the owner of record and the person having charge or possession, if other than the owner of record, of the property upon which the nuisance exists, and may be served by any person authorized by the district board in the same manner as a summons in a civil action.

SEC. 53. Section 2861.7 of the Health and Safety Code is amended to read:

2861.7. Any recurrence of the nuisance may be deemed to be a

continuation of the original nuisance.

SEC. 54. Section 2862 of the Health and Safety Code is amended to read:

2862. If the nuisance is not abated within the time specified in the notice or an order following the hearing, the district board may abate the nuisance.

SEC. 55. Section 2862.5 is added to the Health and Safety Code, to read:

2862.5. The cost of abating a nuisance shall be repaid to the district by the owner of the property. However, the owner shall not be required to pay for the costs unless, either prior to or subsequent to the abatement by the district, a hearing is held by the district board, at which the property owner is afforded an opportunity to be heard, and the district board determines that a nuisance actually exists or that a nuisance existed prior to the abatement by the district.

SEC. 56. Section 2863 of the Health and Safety Code is amended to read:

2863. When any nuisance is found to exist on any property subject to the control of any state or local agency, the district shall notify the state or local agency of the existence of the nuisance. Sections 2858, 2860, 2861, 2861.5, and 2862 shall govern the contents of the notice and the manner of serving it, the right of the state or local agency to a hearing before the board, the hearing before the board, and the power of the district to abate the nuisance if it is not abated by the state or local agency. If the state or local agency determines that the order to prevent recurrence of the breeding specified in the notice to abate the nuisance is excessive or inappropriate for the intended use of the land, or if the state or local agency determines that a nuisance, as specified in Section 2800.5, does not exist, the agency may appeal the decision of the board to the State Director of Health Services within 10 days subsequent to the hearing. The director shall decide the matters on appeal and convey his or her decision to the agency and district within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive. If the control of the nuisance is performed by the district, the cost for that control is a charge against, and shall be paid from, the maintenance fund or from other funds for the support of the state or local agency.

Any state or local agency and a district may enter into contractual agreements to provide control of nuisances. The authority which is granted by this paragraph is in addition to any other authority which a state or local agency and a district may have to enter into contractual agreements for the control of public nuisances, as defined in Section 2800.5.

As used in this section, "state agency" means an agency defined in Section 11000 of the Government Code, and "local agency" means a city, county, city and county, district, or other public corporation.

SEC. 57. Section 2864 of the Health and Safety Code is repealed.

SEC. 58. Section 2864 is added to the Health and Safety Code, to read:

2864. Upon the failure of the property owner or the person in possession of the property to pay the district for all sums expended by the district in abating a nuisance or preventing its recurrence, or upon the failure to pay all civil penalties, the costs or penalties, or both, shall become a lien upon the property on which the nuisance was abated or its recurrence prevented when notice of the lien is filed and recorded. However, if the property has been conveyed prior to the recordation of the lien, the lien shall not attach to the real property, but shall remain the debt of the person who owned the land at the time the costs were incurred, and the debt may be recovered by the district board against the debtor, as provided in Section 2866.

SEC. 59. Section 2864.7 of the Health and Safety Code is amended to read:

2864.7. A copy of the filed and recorded lien may be given to the county assessor and tax collector, who, upon receipt of the lien, shall add the amount of the lien to the next regular tax bill levied against the parcel for district purposes.

SEC. 60. Section 2865 of the Health and Safety Code is amended to read:

2865. If the county assessor and the tax collector assess property and collect taxes for the district, a certified copy of the lien shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

SEC. 61. Section 2865.5 of the Health and Safety Code is amended to read:

2865.5. The county auditor shall enter each lien on the county tax roll opposite the parcel of land.

SEC. 62. Section 2866 of the Health and Safety Code is amended to read:

2866. The amount of the lien shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency, as provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes shall be applicable to the special assessment, except that if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property, but instead shall be transferred to the unsecured roll for collection.

SEC. 63. Section 2868 of the Health and Safety Code is amended to read:

2868. Any amounts collected by a county on account of a lien authorized by this article, other than the amounts requested to be paid into the county general fund pursuant to Section 29304 of the

Government Code, shall be paid to the district.

SEC. 64. Section 2870 of the Health and Safety Code is amended to read:

2870. The district board shall annually before July 10 prepare a written estimate of the amount of money necessary for the purposes of the district during the ensuing fiscal year.

SEC. 65. Section 2871 of the Health and Safety Code is repealed.

SEC. 66. Section 2871 is added to the Health and Safety Code, to read:

2871. The county auditor shall allocate to a district its share of property tax revenue pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 67. Section 2871.5 of the Health and Safety Code is amended to read:

2871.5. (a) If the petition for formation of the district states that the property shall be taxed on the basis of area, the rate shall be based on area of land, regardless of assessed valuation.

(b) If the petition for formation of the district states that property shall be taxed on the basis of a combination of area and some other basis, the district board shall, after a public hearing, determine the proportion of each source of revenue, and may consider zones of benefit or other equitable methods of establishing the rate to be charged based on area.

(c) The county assessor of each county shall prepare an assessment roll showing the names and addresses and the acreage owned by each person owning land within a district, which roll shall be the basis for the tax provided for in this section.

SEC. 68. Section 2871.7 of the Health and Safety Code is repealed.

SEC. 69. Section 2871.7 is added to the Health and Safety Code, to read:

2871.7. After a public hearing, the district board shall determine the rate of the tax.

SEC. 70. Section 2871.8 is added to the Health and Safety Code, to read:

2871.8. (a) Whenever it appears to the district board that the amount of funds required during an ensuing fiscal year will exceed the amount available, the district board may call an election to submit to the electors of the district the question of whether a special tax shall be voted for raising the additional funds, pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(b) Notice of the election shall be published for at least four weeks prior to the election.

(c) No particular form of ballot shall be required, nor shall any informalities in conducting the election invalidate it if it is otherwise fairly conducted.

(d) At the election the ballots shall contain the words "Shall the district vote a tax to raise the additional sum of _____ ?" or words

equivalent thereto.

(e) The district board shall canvass the votes cast at the election, and, if two-thirds of the votes cast are in favor of the imposition of the tax, shall report the result to the board of supervisors of the county in which the district is situated, stating the additional amount of money required to be raised. If the district is in more than one county, the additional amount shall be prorated for each county by the district board in the same way that the district's original total estimate of funds is prorated. The district board shall furnish the board of supervisors and auditor of each county a written statement of the apportionment for each county.

SEC. 71. Section 2871.9 is added to the Health and Safety Code, to read:

2871.9. Any district formed prior to January 1, 1985, may petition the board of supervisors for a change in the method of financing the district's operations, as provided in this chapter. The board of supervisors shall accept the petition, in lieu of the petition required by Section 2822.5, and shall proceed to consider changes in the method of district financing consistent with Article 2 (commencing with Section 2210) of Chapter 5.

SEC. 72. Section 2872 of the Health and Safety Code is amended to read:

2872. All taxes and assessments levied under this chapter shall be assessed and collected at the same time and in the same manner as other taxes are collected for county purposes, and shall be paid into the county treasury to the credit of the district.

SEC. 73. Section 2875 of the Health and Safety Code is repealed.

SEC. 74. Section 2876 of the Health and Safety Code is amended to read:

2876. Notwithstanding the basis upon which property in the district is taxed, if a district is organized in any year too late for the levy of a tax in that year or in the next ensuing year, the board of supervisors is authorized to transfer funds of the county not immediately needed for county purposes to the district fund to be used for the payment of the expenses of the district until the district's special assessment tax receipts are available to it. The board of supervisors shall include, in the levy of taxes for the district for the first fiscal year in which a tax may be levied, a sum sufficient to repay to the county the amounts transferred to the district for the portion or portions of the preceding fiscal year or years for which no levy of taxes was made for that purpose. The amounts transferred shall be retransferred to the county treasury from the district fund out of the first available receipts from the tax levy.

SEC. 75. Section 2901 is added to the Health and Safety Code, to read:

2901. Annexations may proceed under Article 2 (commencing with Section 2822), as though territory to be annexed were a new district, except that the pest or pests to be controlled shall be the same as those which the annexing district is authorized to control.

SEC. 76. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 77. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 78. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Some areas of local government are most anxious for the amendments to the law contained in this act to take effect in order that the mosquito abatement and vector control districts in those areas may function accordingly. Therefore, in order to accomplish this purpose, it is necessary for this act to take effect immediately.

CHAPTER 912

An act to amend Sections 2, 4, 8, 11, 13, 14, 15, 16, 17.1, 17.2, 33, 45, and 46 of, to repeal Section 12 of, and to add Sections 17.4, 49, and 50 to, the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session), relating to the San Diego County Flood Control District.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 2 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 2. A flood control district is hereby created to be called the San Diego County Flood Control District. The district shall consist of all of the unincorporated territory of the County of San Diego lying within the exterior boundaries of the county on July 1, 1985. Areas that are thereafter incorporated or annexed to a city may be annexed to the district as cooperating territory as provided in Section 45.

SEC. 2. Section 4 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 4. The district may be divided into zones and subzones in

accordance with Section 13.

SEC. 3. Section 8 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 8. The County Counsel, the Clerk of the Board of Supervisors, the County Assessor, the County Tax Collector, the County Clerk, the County Auditor and Controller, the County Registrar of Voters, the County Purchasing Agent, the Director of Public Works, and the County Treasurer of the County of San Diego, and their successors in office and all their assistants, deputies, clerks, and employees, and all other officers of the county and their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks, and employees respectively of said district, and shall respectively perform, unless otherwise provided by the board, the same various duties for the district as for the county, in order to carry out the purposes of this act. All such officers, assistants, deputies, clerks, and employees shall receive their actual and necessary expenses in the performance of official duties under this act payable from the funds of the district, and the district shall reimburse the county for the services rendered to the district and paid for by the county of such officers, assistants, deputies, clerks, and employees. Officers, assistants, deputies, clerks, and employees of the district may, without prejudice to their rights be transferred to the service of the county or may be assigned to perform work for the county, in which event a charge for such services rendered shall be payable by the county to the district.

SEC. 4. Section 11 of the San Diego County Flood Control District Act (Chapter 55 of Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 11. The board may appoint advisory commissions for the district and for individual zones of the district. The duties, composition, and powers of any advisory commission shall be determined by the board.

Nothing in this act shall be construed to require the board to take any action, general or specific, because the action was approved or recommended by a commission.

SEC. 5. Section 12 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is repealed.

SEC. 6. Section 13 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 13. Concurrently with the institution of a project or work of improvement, the board may establish a zone which may contain a subzone or participating subzones for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving such project or work of improvement. Whenever it is proposed to establish a zone, subzone, or participating subzones the resolution of intention required by this act shall contain, in addition to other

required matters, a statement of the board's intention to establish a zone, subzone, or participating subzones, as the case may be, a description of the proposed boundaries thereof, and, where participating subzones are proposed, the proportionate amount of the costs to be borne by each subzone. The board may establish a continuously operating zone, subzone, or subzones for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving projects or works of improvement. Whenever it is proposed to establish a continuously operating zone, subzone, or subzones, the resolution of intention required by this act shall contain, in addition to the other required matters, a statement of the board's intention to establish a continuously operating zone, subzone, or subzones and a description of the boundaries thereof.

At the hearing held pursuant to this act in addition to other matters then required to be determined, the board shall determine the extent of any zone or participating subzones it may establish. The board shall have the power to exclude such territory from any proposed zone, subzone, or participating subzones as the board finds will not be benefited by inclusion therein.

No revenues from the taxes or assessments levied in one zone or subzone under this section shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any project or work or improvement located in any other zone or subzone, except in the case of joint projects or projects which are authorized or established outside of the zone or subzone from which the revenues are derived but which are for the benefit of the zone or subzone.

All the provisions of this act relating to bonds and relating to projects and works of improvement are applicable to zones, or subzones and participating subzones, and all of the powers and duties conferred or imposed by this act on the district, including the powers and duties to levy and collect taxes or assessments and to incur indebtedness and to issue and sell bonds, shall apply with respect to zones, subzones, and participating subzones.

It is hereby declared that for the purposes of any tax or assessment levied pursuant to this act in any zone, subzone, or participating subzone, the property so taxed or assessed is equally benefited.

Whenever a special bond election is called and held under Section 18 of this act, or as authorized by Section 27 of this act, with respect to any zone, subzone, or participating subzone, it shall be called and held only within such zone, subzone, or participating subzone for which the bonded indebtedness is proposed to be incurred and need not be called or held in any of the remaining territory of the zone or participating zones of which the zone, subzone, or participating subzone may be a part. Any defect or irregularity in the proceedings prior to the calling of the special bond election shall not affect the validity of the bonds authorized by the election. When a project or work of improvement affects a single subzone only, then bonds for such subzone for the amount stated in such proceedings shall be

issued and sold as in this act provided only if at the election called for that purpose a majority of the votes cast in the subzone on the proposition of incurring a bonded indebtedness are in favor thereof. When the incurring of bonded indebtedness by a participating subzone is to be determined at any election, no bonds for any of such participating subzones shall be issued or sold unless a majority of the votes cast on the proposition submitted at the election in each participating subzone are in favor of incurring the bonded indebtedness to be undertaken by the participating subzone. Bonds of the district issued for any zone, subzone, or participating subzone pursuant to this act shall be legal investments, and may be used as security, and money or funds may be invested in the bonds, as provided in Section 25 of this act with respect to bonds of the district issued for zones.

SEC. 7. Section 14 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 14. (a) The board may institute projects or works of improvement for single zones or subzones and joint projects or works of improvement for participating zones or subzones, and for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any project or work of improvement of common benefit to such zone or subzones or participating zones or subzones.

(b) Prior to proceeding with any project or work of improvement within any zone, subzone, or participating subzones, the board shall adopt a resolution specifying its intention to undertake the same, setting forth the engineering estimates of the cost thereof to be borne by the particular subzone, zone, and in the case of participating subzones, the proportionate cost to be borne by each participating subzone and the method of financing and fixing a time and place for public hearing on the matters referred to in the resolution. The resolution shall refer to an engineer's report or to a map or maps or other documents showing the general location and general nature of the proposed project together with a map showing the exterior boundaries of the proposed zone, subzone, or participating subzones.

(c) Notice of the hearing shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the district and circulated in the zone, subzone, or each of the participating subzones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to said hearing in five public places designated by the board, in such zone, subzone, or in each of the participating subzones. Publication shall be complete at least seven days before the date of the hearing. The notice shall designate a public place in the zone, subzone, or in each of the participating subzones where a copy or copies of the map or maps of the joint project or work of improvement may be seen by any interested

person. The map shall be posted in each of those public places so designated in the notice at least two weeks prior to the hearing.

SEC. 8. Section 15 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 15. (a) At any time not later than the hour set for hearing protests or objections to the proposed work, any owner of property within the proposed zone, subzone, or participating subzones may make written protest against the proposed work or against the extent of the zone, subzone, or participating subzones to be formed. The protests shall be in writing, shall contain a description of the property in which each signer thereof is interested, sufficient to identify the same and, if the signers are not shown on the last equalized county assessment roll as owners of such property, shall contain or be accompanied by written evidence that the signers are the owners of the property. All protests shall be delivered to the clerk, and no other protests or objections shall be considered.

(b) At the time set for hearing protests the board shall proceed to hear and pass upon all protests as herein required and its decision shall be final and conclusive. The board may adjourn the hearings from time to time. Any such protest may be withdrawn by the owner making the same at any time prior to the conclusion of said protest hearing or any such adjournment thereof.

(c) If the board finds that the protest is made by the owners of more than one-half of the area of the property within a proposed zone or subzone, and protests are not withdrawn so as to reduce the same to less than a majority, no further proceedings as to such proposed subzone shall be taken for a period of six months from the date of the decision of the board on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the board.

(d) If it shall be necessary, in order to find whether a majority protest exists, to determine whether any or all of the signers of written protest are "owners" of property within a proposed zone or subzone, the board shall make that determination from the last equalized assessment roll, any written evidence submitted with a written protest and any other evidence received at the hearing. The board shall be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownerhsip shall be final and conclusive.

(e) At the conclusion of the hearing, if no protests or objections in writing have been filed with the clerk up to the hour set for the hearing or if protests have been found by the board to be insufficient, or have been overruled, the board shall determine and establish the exterior boundaries of the proposed zone, subzone, or participating subzones and may thereupon order the construction, maintenance, operation, extension, repair, or improvement of the project or work of improvement.

SEC. 9. Section 16 of the San Diego County Flood Control

District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 16. (a) The board shall have power, in any year, to levy and collect ad valorem taxes or assessments upon all taxable property in the district or any zone to pay the costs and expenses of carrying out any of the objects or purposes of this act benefiting the zone, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all projects or works of improvement established or to be established within or on behalf of the zone.

(b) It is declared that for the purpose of any tax or assessment levied in the district pursuant to this section, that the property so taxed or assessed within the district is equally benefited.

(c) The aggregate taxes or assessments levied in the district and any one zone pursuant to this section for any one fiscal year shall not exceed twenty-five cents ($0.25) on each one hundred dollars ($100) of the assessed valuation of the taxable property in the district.

(d) Taxes or assessments shall be levied and collected together with and not separately from taxes for county purposes, and the revenues derived from said taxes or assessments shall be paid into the county treasury to the credit of the district.

(e) No revenues from special taxes or assessments levied in one zone under this section shall be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any project or work of improvement located in any other zone, except in the case of joint projects or in the case of projects authorized or established outside such zone but for the benefit thereof.

(f) The limitation established by subdivision (c) is exclusive of the amounts necessary for interest and redemption of any bonds voted within any zone or subzone, and is exclusive of any taxes or assessments made or levied pursuant to Section 32.

SEC. 10. Section 17.1 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 17.1. (a) The board by ordinance adopted from time to time may establish special drainage areas within the district without reference to the boundaries of other zones or subzones setting forth in each such ordinance a description of such special drainage areas by metes and bounds and entitling each such area by an area designation or number and institute specific drainage plans for the specific benefit of such areas. Before acquiring authority to proceed with the establishment of any special drainage area the exterior boundaries of which will include any land lying within the exterior boundary of any chartered or incorporated city not previously annexed to the district the board shall first obtain the concurrence of the city by a resolution or ordinance adopted by a majority of the city council of the city and shall proceed to annex the area to the district and to the zone or zones of the district most nearly

contiguous thereto.

(b) A special drainage area may include all lands contributing to the drainage requirements of an area excluding such lands as are already developed or those which are adequately served, in the opinion of the board, by existing local drainage facilities serving the area at the time of the adoption of the plan for additional special drainage area facilities.

(c) Whenever drainage facilities conforming to the adopted drainage plan are required in the development of any land within the special drainage area and where, in the opinion of the board, it is necessary that facilities be constructed which can be or will be used for the benefit of other property in the drainage area and such drainage facilities are dedicated to the public, the board may contract with the developer and agree to reimburse and may reimburse him for all or any portion of such drainage facilities. Such contract shall provide that the board may collect a reasonable charge from any person, corporation, or agency using such facilities for the benefit of other property in the special drainage area.

(d) "Benefit" includes, but is not limited to, the following:

(1) Any increase in the market value of the property.

(2) The provision for accepting the burden from specific property for discharging surface water onto servient property in a manner or quantity greater than would naturally flow because the dominant owner made some of his or her property impermeable.

(3) Any adaptability of property to a superior or more profitable use.

(4) Any alleviation of health and sanitation hazards occurring to particular property or of public property.

(5) Any reduction in the maintenance costs of particular property or of public property.

(6) Any increase in convenience or reduction in inconvenience accruing to particular property owners, including the facilitation of access to and travel over streets, roads, and highways.

(7) Aesthetic, ecological, or recreational improvements accruing to particular property owners.

(e) Fees may be collected pursuant to this section for payment of all or any portion of any such drainage facility cost if the costs, whether actual or estimated, are based upon findings by the board that development of property within the planned special drainage area will require construction of the facilities described in the drainage plan and that the fees are fairly apportioned within the local drainage area on the basis of benefits conferred on the property within the area. The fee as to any property within the special drainage area may be charged and collected as a condition precedent to the development of such property, and no building permit therefor shall be issued until payment thereof, and such fee shall not exceed the pro rata share of the amount of the total actual or estimated costs of all such drainage facilities within the special drainage area which would be accessible on such property if such

costs were apportioned on a uniform fee schedule, excluding, however, such property within the area as, in the opinion of the board, is incapable of development.

(f) The fees collected by the district, pursuant to this section, shall be paid into a special drainage facilities fund. A separate fund shall be established for each special drainage area. Any money placed in such fund shall be expended solely for land acquisition, construction, engineering, repair, maintenance, and operation or reimbursement for the same, in whole or in part, of local drainage facilities within the planned special drainage area from which the fees comprising the fund were collected.

(g) The term "developer," as used herein, shall include a subdivider, industrial developer, or any person, corporation, the district, public or private agency, or group that may participate in the special drainage facilities constructed pursuant to this section.

(h) Any drainage facilities constructed in any special drainage area may be installed by the developer at his sole cost and expense in accordance with plans and specifications prepared or approved by the district, by the district with its own funds, or by the district with funds supplied by the developer, and the cost thereof may be collected and repaid in whole or in part, in the manner provided for in this section.

SEC. 11. Section 17.2 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 17.2. Prior to the establishment of any special drainage area pursuant to Section 17.1 the board shall adopt a resolution specifying its intention to adopt an ordinance to establish the special drainage area. The resolution shall refer to a map or maps showing the general location of the area and shall be accompanied by the proposed ordinance providing for the establishment of the fees and charges to be imposed therein and fixing the time and place of a public hearing of the resolution of intention.

Such proposed ordinance shall refer to the area to be benefited by the works and facilities to be constructed within the special drainage area and shall contain a description of the boundaries of the area of benefit and the costs, whether actual or estimated, and the method of fee apportionment employed and upon adoption shall be filed with the Recorder of San Diego County. Such ordinance shall further provide that such apportioned fees shall be applicable to all property within the area of benefit not specifically excluded therefrom and that they shall be payable as a condition precedent to the issuance of a building permit for such property or portions thereof.

Notice of the hearing hereinabove provided shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the district and circulated in such special drainage area if there be such newspaper and if there be no such newspaper, then by posting such notice for two consecutive weeks prior to the hearing in five public places

designated by the board, in such proposed special drainage area. Publication shall be completed in accordance with Section 6066 of the Government Code. Such notice shall designate a public place in the County of San Diego where a copy or copies of the map or maps, the boundaries of such proposed special drainage area, the proposed specific drainage plan and the proposed ordinance may be seen by any interested person and such materials shall be maintained for inspection in such public place so designated in the notice at least two weeks prior to the hearing.

SEC. 12. Section 17.4 is added to the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session), to read:

Sec. 17.4. Any city which has been formed into a special drainage area pursuant to Sections 17.1 to 17.3, inclusive, and which is detached from the district as a result of the act which enacted this section may continue as a special drainage area pursuant to the provisions of Sections 17.1 to 17.3, inclusive, subject to the following conditions:

(a) After January 1, 1985, and prior to July 1, 1985, the city shall adopt by reference any district ordinance previously adopted pursuant to the Sections 17.1 to 17.3, inclusive. The notice and hearing requirements contained in Sections 17.1 to 17.3, inclusive, shall not apply to adoption of the district ordinance by the city. The ordinance shall not become operative until July 1, 1985.

(b) All powers and duties of the board and other officers and employees of the district shall become the powers and duties of the city council and the officers and employees of the city.

(c) All fees collected within the city shall become the property of the city. Fees previously collected pursuant to Sections 17.1 to 17.3, inclusive, within the city, shall be transferred to the city.

SEC. 13. Section 33 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 33. All contracts for the construction of any unit of work or for any services estimated to cost over ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in accordance with Chapter 2 (commencing with Section 21000) of Part 3 of Division 2 of the Public Contract Code. If the cost of the project or service will not exceed ten thousand dollars ($10,000) the district may have the work done by force account. The district may purchase in the open market, without advertising for bid, materials and supplies for use in any work either under contract or by force account.

SEC. 14. Section 45 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 45. All or any portion of an incorporated city may be annexed to the district as a cooperating territory to allow for the district and the cooperating city to carry out any of the objects or purposes of the district. Annexations and detachments of

cooperating territory shall be accomplished by resolution of the board of directors in response to a resolution of the cooperating city council requesting annexation to carry out a specific object or purpose of mutual benefit, as set forth in a formal agreement executed by the city council on behalf of the city territory and the board on behalf of the district.

SEC. 15. Section 46 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is amended to read:

Sec. 46. The annexation of territory lying within the district to any city shall automatically result in detachment of that territory from the district.

SEC. 16. Section 49 is added to the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session), to read:

Sec. 49. (a) The district, the county, and any city which is detached from the district as a result of the act which enacted this section shall negotiate a property tax exchange. Funds received by a city as a result of that negotiated property tax exchange shall be used by the city in city territory for flood control objects and purposes as defined in Section 5.

(b) The base revenue allocated to the district which is collected within each affected city shall be placed in an impound account for each affected city by the Auditor and Controller of the district until the property tax exchange for the affected city has been agreed to by resolutions of the district, the county, and the affected city.

(c) As to any unincorporated area annexed to the district as a result of the act which enacted this section, the county and the district may, but are not required to, negotiate a property tax exchange.

(d) Property tax revenues allocated to zones prior to July 1, 1985, shall be allocated as determined by the board of directors.

SEC. 17. Section 50 is added to the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session), to read:

Sec. 50. Notwithstanding Sections 54902 and 54903 of the Government Code, the boundary changes resulting from the act which enacted this section shall be effective for taxation and assessment purposes for the 1985–86 fiscal year if the required statement and map are filed on or before July 1, 1985.

The boundary changes resulting from the act which enacted this section shall become effective July 1, 1985, except that a city desiring to adopt a district ordinance by reference pursuant to Section 17.4 may do so after January 1, 1985, and prior to July 1, 1985.

SEC. 18. Sections 1 and 2 of this act shall become operative July 1, 1985.

SEC. 19. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and

Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 913

An act to add Section 9641.6 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 9641.6 is added to the Food and Agricultural Code, to read:

9641.6. (a) The director may issue a permit, valid on January 1 and renewable on or before January 1 of each year thereafter, that exempts any working horse from the requirements of Section 9641.5 under all of the following conditions:

(1) The applicant owns or operates a business or businesses located in both this state and in another state in which horses are used in the operation of the business or businesses.

(2) The horse is moved across the state border from one business location to the other.

(b) The director may require the applicant to furnish any information that the director determines to be necessary as part of the application process.

(c) "Working horse" means a horse used for livestock husbandry or for other ranch-related activities.

CHAPTER 914

An act to amend Section 1373.6 of, and to add Section 1373.62 to, the Health and Safety Code, and to amend Sections 12670, 12671, and 12689 of, and to add Section 12692 to, the Insurance Code, relating to insurance.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 1373.6 of the Health and Safety Code is amended to read:

1373.6. (a) Except in the case of a specialized health care service plan contract, every group contract entered into, amended or

renewed on or after January 1, 1985, that provides hospital, medical, or surgical expense benefits for employees or members shall provide that an employee or member whose coverage under the group contract has been terminated by the employer shall be entitled to convert to nongroup membership, without evidence of insurability, subject to the terms and conditions of this section.

(b) A conversion contract shall not be required to be made available to an employee or member if termination of his or her coverage under the group contract occurred for any of the following reasons:

(1) The group contract terminated or an employer's participation terminated.

(2) The employee or member failed to pay amounts due the health care service plan.

(3) The employee or member was terminated by the health care service plan from the plan for good cause.

(4) The employee or member knowingly furnished incorrect information or otherwise improperly obtained the benefits of the plan.

(5) The employer's hospital, medical, or surgical expense benefit program is self-insured.

(c) A conversion contract is not required to be issued to any person if any of the following facts are present:

(1) Such person is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act.

(2) The person is covered by or is eligible for hospital, medical, or surgical benefits under state or federal law.

(3) The person is covered by or is eligible for hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group, whether insured or self-insured.

(4) The person is covered for similar benefits by an individual policy or contract.

(5) The person has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

(d) Benefits of a conversion contract shall meet the requirements for benefits under this chapter.

(e) Unless waived in writing by the plan, written application and first premium payment for the conversion contract shall be made not later than 31 days after termination from the group.

(f) The conversion contract shall cover the employee or member and his or her dependents who were covered under the group contract on the date of their termination from the group.

(g) A notification of the availability of the conversion coverage shall be included in each evidence of coverage. However, it shall be the sole responsibility of the employer to notify its employees of the availability, terms, and conditions of the conversion coverage which responsibility shall be satisfied by notification within 15 days of termination of group coverage. Group coverage shall not be deemed

terminated until the expiration of any continuation of the group coverage. For purposes of this subdivision, the employer shall not be deemed the agent of the plan for purposes of notification of the availability, terms, and conditions of conversion coverage.

(h) As used in this section, "hospital, medical, or surgical benefits under state or federal law" do not include benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Title XIX of the United States Social Security Act.

SEC. 2. Section 1373.62 is added to the Health and Safety Code, to read:

1373.62. Except in the case of a specialized health care service plan contract, on and after January 1, 1985, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer to group contract holders a continuation benefit, which, if selected, shall have a duration of at least 90 days. The terms and conditions shall include continuation benefit coverage for widows, widowers, divorced spouses, and their dependents who were covered by the group contract on the date of termination of coverage. However, any existing provisions of law regarding termination of a dependent child status shall not be affected by this section.

The continuation of coverage shall be available only under the following conditions:

(a) Those eligible remain within the State of California, although the departure of a dependent child to another state shall not invalidate the continuation provisions for any other family members.

(b) Those eligible do not marry or remarry, although the marriage of any dependent child shall not invalidate the continuation provisions for other family members.

(c) Those eligible are not eligible for any comparable state, federal, or private group medical plan, although the eligibility of any dependent child shall not invalidate the continuation provisions for other family members.

(d) Those eligible do not find employment with an employer that has a group plan of its own, even if the plan is less substantive, although the entry into such an employee plan by a dependent child shall not invalidate the continuation provisions for other family members.

(e) The group contract is not terminated or the employer's participation in the group contract is not terminated.

(f) Those eligible do not knowingly furnish incorrect information or otherwise improperly obtain the benefits of the plan.

(g) The continuing individual shall pay the premium amount in the manner specified in the group contract for both his or her share of the premium and the group contract holder's share, if any.

(h) Eligible persons under this section shall be notified in the same manner required for conversion notification pursuant to Section 1373.6. Every plan shall communicate the availability of such

coverage to all group contract holders and to all prospective group contract holders with whom they are negotiating.

SEC. 3. Section 12670 of the Insurance Code is amended to read:

12670. It is the intent of the Legislature to ensure that persons covered by a group policy, who become ineligible for such coverage have access to minimum benefits pursuant to this part by requiring employers, employee organizations, and other entities which provide such coverage to their employees or members to also make available conversion policies for such persons and to ensure that insurers as herein defined offer conversion policies. In addition, it is the intent of the Legislature to encourage the continuation of group health coverage by requiring the entities herein defined to make available continuation benefits for widows, widowers, divorced spouses, and dependents who were covered by the group policy on the date of termination of coverage.

SEC. 4. Section 12671 of the Insurance Code is amended to read:

12671. As used in this part:

(a) "Group policy" means a group disability insurance policy providing medical, hospital, surgical, major medical, or comprehensive medical coverage issued by an insurer, a group contract issued by a hospital service corporation or medical, hospital, surgical, major medical, or comprehensive medical coverage otherwise provided by a policyholder to its employees or members, except for self-insurance programs provided by employers that are not exempt from ERISA, as specified in subdivision (i). For the purposes of this part, a group policy not having an established annual renewal date shall be considered renewed on each anniversary of its effective date.

(b) "Conversion coverage" means disability insurance benefits providing hospital, surgical, major medical, or comprehensive medical coverage issued to an individual under a converted policy.

(c) "Converted policy" means a policy or contract providing conversion coverage issued by an insurance company or by a hospital service corporation, or individual hospital, surgical, major medical, or comprehensive medical coverage otherwise provided by a policyholder to its employees or members.

(d) "Insurer" means the entity issuing a group policy, an individual or converted policy, a hospital service contract or an employer or employee organization otherwise providing medical, hospital, surgical, major medical, or comprehensive medical coverage to its employees or members.

(e) "Insurance" refers to medical, hospital, surgical, major medical, or comprehensive coverage paid by premium or contribution under a group policy, a hospital service contract, or as otherwise provided by a policyholder to its employees or members other than by self-insuring except in the case of a plan that is exempt from ERISA, but does include an employer plan that is exempt from ERISA as specified in subdivision (i). "Insurance" does not include coverage provided solely as an accrued liability or by reason of a

disability extension.

(f) "Policyholder" means the holder of a group policy issued by an insurer, a holder of a group contract issued by a hospital service corporation or an employer, employee association or other entity otherwise providing medical, hospital, surgical, major medical, or comprehensive medical coverage on a group basis to its employees or members.

(g) "Premium" means contribution or other consideration paid or payable for coverage under a group policy or converted policy.

(h) "Medicare" means Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded.

(i) "Employer plan that is exempt from ERISA" means any employer plan that, pursuant to the provisions of Section 1003 of Title 29 of the United States Code, is not covered by or that is exempt from the provisions of Subchapter I (commencing with Section 1001) of Chapter 18 of Title 29 of the United States Code, except that, in the case of a governmental plan, it only includes a self-insured governmental plan as defined in subdivision (h).

(h) "Self-insured governmental plan" means a self-insured plan established or maintained for its employees by any public entity, as defined in Section 811.2 of the Government Code, which is a governmental plan as defined in subdivision (32) of Section 1002 of Title 29 of the United States Code.

SEC. 5. Section 12689 of the Insurance Code is amended to read:

12689. A notification of the conversion coverage shall be included in each certificate of coverage or other legally required document explaining coverage; provided, however, that it shall be the sole responsibility of the policyholder to notify its employees or members of the availability, terms and conditions of conversion coverage which responsibility shall be satisfied by notification within 15 days of termination of group coverage. Group coverage shall not be deemed terminated until the expiration of any continuation of the group coverage. For purposes of this part, the policyholder shall not be deemed to be the agent of the insurer for purposes of notification of the availability, terms and conditions of conversion coverage.

SEC. 5. Section 12692 is added to the Insurance Code, to read:

12692. On and after January 1, 1985, every insurer and nonprofit hospital service plan issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer to group policyholders a continuation benefit which, if selected, shall have a duration of at least 90 days. The terms and conditions shall include continuation benefit coverage for widows, widowers, divorced spouses, and their dependents who were covered by the group contract on the date of termination of coverage. However, any existing provisions of law regarding termination of a dependent child status shall not be affected by this section.

The continuation of coverage shall be available only under the following conditions:

(a) Those eligible remain within the State of California, although the departure of a dependent child to another state shall not invalidate the continuation provisions for any other family members.

(b) Those eligible do not marry or remarry, although the marriage of any dependent child shall not invalidate the continuation provisions for other family members.

(c) Those eligible are not eligible for any comparable state, federal, or private group medical plan, although the eligibility of any dependent child shall not invalidate the continuation provisions for other family members.

(d) Those eligible do not find employment with an employer that has a group plan of its own, even if the plan is less substantive, although the entry into such an employee plan by a dependent child shall not invalidate the continuation provisions for other family members.

(e) The group policy is not terminated or the employer's participation in the group policy is not terminated.

(f) Those eligible do not knowingly furnish incorrect information or otherwise improperly obtain the benefits of the plan.

(g) The continuing individual shall pay the premium amount in the manner specified in the group policy for both his or her share of the premium and the group policyholder's share, if any.

(h) Eligible persons under this section shall be notified in the same manner required for conversion notification pursuant to Section 12689. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 915

An act to amend Sections 40303.5, 40522, and 40610 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 40303.5 of the Vehicle Code is amended to read:

40303.5. Whenever any person is arrested for any of the following offenses, the arresting officer shall permit the arrested person to execute a notice containing a promise to correct the violation in accordance with the provisions of Section 40610 unless the arresting officer finds that any of the disqualifying conditions specified in subdivision (b) of Section 40610 exist:

(a) Any registration infraction set forth in Division 3 (commencing with Section 4000).

(b) Any driver's license infraction set forth in Division 6 (commencing with Section 12500), and subdivision (a) of Section 12951, relating to possession of driver's license.

(c) Section 21201, relating to bicycle equipment.

(d) Any infraction involving equipment set forth in Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14.8 (commencing with Section 34500), Division 16 (commencing with Section 36000), Division 16.5 (commencing with Section 38000), and Division 16.7 (commencing with Section 39000).

SEC. 2. Section 40522 of the Vehicle Code is amended to read:

40522. Whenever a person is arrested for violations specified in Section 40303.5 and none of the disqualifying conditions set forth in subdivision (b) of Section 40610 exist, and the officer issues a notice to appear, the notice shall specify the offense charged and note in a form approved by the Judicial Council that the charge shall be dismissed on proof of correction. If the arrested person presents, by mail or in person, proof of correction, as prescribed in Section 40616, on or before the date on which the person promised to appear, the court shall dismiss the violation or violations charged pursuant to Section 40303.5.

SEC. 3. Section 40610 of the Vehicle Code is amended to read:

40610. (a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall

sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section 40522.

(b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:

(1) Evidence of fraud or persistent neglect.

(2) The violation presents an immediate safety hazard.

(3) The violator does not agree to, or cannot, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

SEC. 4. This act shall become operative July 1, 1985.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 916

An act to add Chapter 8.5 (commencing with Section 10081) to Part 1 of Division 2 of the Insurance Code, relating to insurance.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Chapter 8.5 (commencing with Section 10081) is added to Part 1 of Division 2 of the Insurance Code, to read:

CHAPTER 8.5. EARTHQUAKE INSURANCE

10081. No policy of residential property insurance may be issued or delivered or, with respect to policies in effect on the effective date of this chapter, initially renewed in this state by any insurer unless the named insured is offered coverage for loss or damage caused by the peril of earthquake as provided in this chapter. That coverage may be provided in the policy of residential property insurance itself, either by specific policy provision or endorsement, or in a separate policy or certificate of insurance which specifically provides coverage for loss or damage caused by the peril of earthquake alone or in combination with other perils.

10082. The offer required by Section 10081 shall include coverage against risk of loss or damage from the peril of earthquake on all property insured by the policy of residential property insurance. The earthquake coverage shall be in accordance with the insurer's rules and rating plan, provided, however, that nothing contained in this chapter shall require an insurer to issue a policy of residential property insurance except in accordance with the insurer's usual underwriting standards. However, such standard shall not permit an insurer to provide a policy of residential property insurance unless the offer of coverage required by this chapter is made.

10083. (a) The offer of coverage required by Section 10081 may be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it shall be mailed to the mailing address shown on the policy of residential property insurance or application. The offer of earthquake coverage shall contain the following language:

YOUR POLICY DOES NOT PROVIDE COVERAGE AGAINST THE PERIL OF EARTHQUAKE.

CALIFORNIA LAW REQUIRES THAT EARTHQUAKE COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

THE COVERAGE, SUBJECT TO POLICY PROVISIONS, MAY BE PURCHASED AT ADDITIONAL COST ON THE FOLLOWING TERMS:

(A) AMOUNT OF COVERAGE: _____

(B) APPLICABLE DEDUCTIBLE: _____

(C) RATE OR PREMIUM: _____

YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS NOTICE OR IT SHALL BE CONCLUSIVELY PRESUMED THAT YOU HAVE NOT ACCEPTED THIS OFFER.

THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

(b) The offer may contain additional provisions not in conflict

with or in derogation of the foregoing.

(c) Use of the language prescribed by this section shall constitute compliance with the requirements of Section 10081 by an insurer subject thereto.

10084. An insurer which issues or delivers a policy of residential property insurance in this state may comply with the provisions of Section 10081 in any of the following ways:

(a) By offering to underwrite directly the risk of loss or damage caused by peril of earthquake.

(b) By arranging for earthquake coverage to be offered by an affiliated insurer.

(c) By arranging for the coverage to be offered through an insurance agent or broker under a policy or certificate of insurance issued by a nonaffiliated insurer.

10085. If the insurer establishes proof of mailing or delivery of the required offer and the offer of earthquake coverage is not accepted by the named insured within 30 days from the date of mailing or delivery of the offer, there shall be a conclusive presumption that the named insured elected not to accept the coverage. An election, actual or presumed, by any named insured shall be binding upon any other person insured or any other party having an insurable interest in the insured property.

10086. If an offer of earthquake coverage is accepted, the coverage shall be continued at the applicable rates and conditions, provided the policy of residential property insurance is not terminated by the named insured or insurer. If the offer is not accepted, the insurer or any affiliated insurer shall not be required to offer earthquake coverage in connection with any continuation, renewal, or amendment of the policy or reinstatement of the policy following any lapse thereof or with respect to any other policy which extends, changes, supersedes, or replaces the policy of residential property insurance. Nothing in this section shall preclude the named insured from terminating the earthquake coverage at any time.

10086.1. Where the offer of earthquake coverage has not been accepted, the insurer shall notify the named insured that the policy does not provide such coverage. The notice shall be prior to or concurrent with the first renewal of the policy of residential property insurance after the offer. This section shall not affect any other provisions of this chapter nor shall it affect coverage under the policy of residential property insurance.

10087. (a) As used in this chapter "policy of residential property insurance" shall mean a policy insuring individually owned residential structures of not more than four dwelling units, individually owned condominium units, or individually owned mobilehomes, and their contents, located in this state and used exclusively for residential purposes or a tenant's policy insuring personal contents of a residential unit located in this state. "Policy of residential property insurance," as defined, shall not include insurance for real property or its contents used for any commercial,

industrial or business purpose, except a structure of not more than four dwelling units rented for individual residential purposes.

(b) Proof of mailing of the offer by certified mail postage prepaid, return receipt requested addressed to a named insured or applicant at the mailing address shown on the policy or application shall create a conclusive presumption that the offer was made; provided, that failure of return of the receipt shall not invalidate the conclusive presumption.

10088. Notwithstanding the provisions of Section 530, 532, or any other provision of law, and in the absence of an endorsement or an additional policy provision specifically covering the peril of earthquake, no policy which by its terms does not cover the peril of earthquake shall provide or shall be held to provide coverage for any loss or damage when earthquake is a proximate cause regardless of whether the loss or damage also directly or indirectly results from, or is contributed to, concurrently or in any sequence by any other proximate or remote cause, whether or not covered by the policy. The term "policy" as used in this section includes all policies of any nature, including, but not limited to, business and commercial forms providing coverage against loss due to damage to the property of the insured. Nothing in this section shall operate to affect the provisions of Section 2071 or preclude an insurer from specifically providing coverage for direct loss caused by explosion, theft, or glass breakage resulting from an earthquake.

SEC. 2. It is the intent of the Legislature in enacting this act to promote awareness of earthquake insurance by residential property owners and tenants by requiring insurers to offer that coverage. It is the intent of the Legislature to make clear that loss caused by or resulting from an earthquake shall be compensable by insurance coverage only when earthquake protection is provided through a policy provision or endorsement designed specifically to indemnify against the risk of earthquake loss, and not through policies where the peril of earthquake is specifically excluded even though another cause of loss acts together with an earthquake to produce the loss.

CHAPTER 917

An act to amend Sections 1800.5, 1802, 1805, 1807, 1808, 1809, 1811, and 1812 of, to add Section 1807.5 to, to repeal Sections 1806 and 1815 of, and to repeal and add Section 1803 of, the Financial Code, relating to finance.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 1800.5 of the Financial Code is amended to read:

1800.5. For the purposes of this chapter:

(a) Except as otherwise provided in subdivision (b), "receiving money for transmission" does not include selling any check, draft, money order, travelers check, or other instrument (whether or not negotiable) for the transmission or payment of money.

(b) "Receiving money for transmission" includes the sale by a licensee, either directly or indirectly through an agent, of any check or draft which:

(1) Is drawn by the licensee;

(2) Is drawn on, or is payable through or at, an office of a bank located in a foreign country;

(3) Is denominated in a foreign currency; and

(4) Is not designated on its face by the term "money order" or "travelers check" or by any substantially similar term.

(c) "Receiving money for transmission" means receiving money for the purpose of transmitting the same or its equivalent to foreign countries.

(d) "Transmission money" means money received in this state by a licensee for transmission to a foreign country, or any equivalent into which the money is converted, from the time the money is received for transmission to a foreign country until the time the transmission of the money in accordance with the agreement of the licensee with the customer is completed, or, if the transmission is not completed, until such time as the money is repaid to the customer.

(e) "Agent" means any person whom a licensee has appointed as its agent with authority to receive transmission money on behalf of the licensee, provided that the licensee becomes liable for the transmission of the transmission money at the time when the transmission money is received by the person. However, "agent" does not include any officer or employee of the licensee when acting as such at an office of a licensee.

SEC. 2. Section 1802 of the Financial Code is amended to read:

1802. (a) An application for a license shall be in writing, under oath, and in a form prescribed by the Superintendent of Banks. It shall contain the name and address of the applicant, and of every officer and director thereof. The application shall also contain such other information as the superintendent may require. Upon the filing of the application for a license the applicant shall pay the superintendent a filing fee of one thousand dollars ($1,000).

(b) No person other than a corporation may apply for or be issued a license.

(c) Notwithstanding the provisions of Section 1819, all licenses issued prior to January 1, 1985, to noncorporate persons shall be automatically revoked on June 30, 1985. Until June 30, 1985, the fee for filing an application for a license shall be waived if a person which

controls the applicant is a noncorporate person which held a license on December 31, 1984.

SEC. 3. Section 1803 of the Financial Code is repealed.

SEC. 3.5. Section 1803 is added to the Financial Code, to read:

1803. (a) If the superintendent finds, with respect to an application for a license:

(1) That the applicant has adequate capital to engage in the business of receiving money for transmission and that the financial condition of the applicant is otherwise such that it will be safe and sound for the applicant to engage in the business of receiving money.

(2) That the applicant, the directors, and officers of, and any person which controls the applicant, and the directors and officers of any person which controls the applicant, are not lacking in integrity and are of sound financial standing.

(3) That the applicant is competent to engage in the business of receiving money for transmission.

(4) That the applicant's plan for engaging in the business of receiving money for transmission affords reasonable promise of successful operation.

(5) That it is reasonable to believe that the applicant, if licensed, will engage in the business of receiving money for transmission and will comply with all applicable provisions of this chapter and of any regulation or order issued under this chapter, the superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, the superintendent shall deny the application.

(b) The superintendent may, in the absence of credible evidence to the contrary, presume that an applicant, the directors, and officers of, and any person which controls, an applicant, and the directors and officers of any person which controls an applicant are each not lacking in integrity and are of sound financial standing.

SEC. 4. Section 1805 of the Financial Code is amended to read:

1805. The license is not transferable or assignable.

SEC. 5. Section 1806 of the Financial Code is repealed.

SEC. 6. Section 1807 of the Financial Code is amended to read:

1807. (a) Each licensee shall, not more than 90 days after the close of each of its fiscal years or within such longer period as the superintendent may, by regulation or order specify, file with the superintendent a report containing all of the following:

(1) Financial statements (including balance sheet, income statement, statement of changes in shareholders' equity, and statement of changes in financial position) for, or as of the end of, that fiscal year, verified by two of the licensee's principal officers. The verification shall state that each of the officers making it has a personal knowledge of the matters in the report and that each of them believes that each statement on the report is true.

(2) The current address of every office of the licensee in this state at which transmission money is received.

(3) The name and business address of each person which acted as

an agent of the licensee during the last quarter of that fiscal year in this state, and if the person is no longer an agent of the licensee, the date on which the relationship terminated.

(4) Such other information as the superintendent may, by regulation or order, require.

(b) Each licensee shall, not more than 45 days after the end of each quarter (except the fourth quarter of its fiscal year), or within such longer period as the superintendent may by regulation or order specify, file with the superintendent a report containing all of the following:

(1) Financial statements (including balance sheet, income statement, statement of changes in shareholders' equity, and statement of changes in financial position) for, or as of the end of, that fiscal quarter, verified by two of the licensee's principal officers, in the manner described in paragraph (1) of subdivision (a) of this section.

(2) The current address of every office of the licensee in this state at which transmission money is received.

(3) The name and business address of each person which acted as an agent of the licensee during the quarter in this state, and if such person is no longer an agent of the licensee, the date on which such relationship terminated.

(4) Such other information as the superintendent may by regulation or order require.

(c) Each licensee shall file with the superintendent such other reports as and when the superintendent may by regulation or order require.

SEC. 7. Section 1807.5 is added to the Financial Code, to read:

1807.5. (a) Each licensee and each agent of a licensee shall make, keep, and preserve within the United States such books, accounts, and other records in such form, in such manner, and for such time as the superintendent may by regulation or order specify.

(b) All references in this chapter to financial statements, balance sheets, income statements, and statements of changes in financial position of a licensee or agent of a licensee mean financial statements, income statements, and statements of changes in financial position prepared or determined in conformity with generally accepted accounting principles then applicable, fairly presenting in conformity with generally accepted accounting principles the matters which they purport to present.

SEC. 8. Section 1808 of the Financial Code is amended to read:

1808. (a) The superintendent may at any time and from time to time examine the business of any licensee or any agent of a licensee in order to ascertain whether such business is being conducted in a lawful manner and whether all moneys received for transmission are properly accounted for.

(b) The directors, officers, and employees of a licensee or agent of a licensee being examined by the superintendent shall exhibit to the superintendent, on request, any or all of the licensee's accounts,

books, correspondence, memoranda, papers, and other records and shall otherwise facilitate the examination so far as it may be in their power to do so.

(c) Whenever the superintendent examines a licensee or agent of a licensee, the licensee shall pay, within 10 days after receipt of a statement from the superintendent, a fee not to exceed two hundred dollars ($200) per day for each examiner engaged in the examination plus, in case it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

SEC. 9. Section 1809 of the Financial Code is amended to read:

1809. (a) Each licensee shall file with the superintendent a certified copy of every receipt form used by it or by its agents for money received for transmission. No such licensee or its agents shall use any receipt a certified copy of which has not first been filed with and approved by the superintendent.

(b) Any licensee violating the requirements of this section shall be subject to a fine of fifty dollars ($50) for each violation.

(c) If any such licensee or its agent uses a receipt form a certified copy of which has not first been filed with and approved by the superintendent, such licensee shall be liable for the acts of its agents whether or not the licensee authorized the agent to use such form.

SEC. 10. Section 1811 of the Financial Code is amended to read:

1811. (a) As security for the timely and proper delivery of transmission money received by it, each licensee subject to the order of the superintendent, shall deposit and thereafter maintain on deposit with the Treasurer cash in an amount not less than, or securities having a market value not less than, such amount as the superintendent may find and specify as necessary for the protection of transmission money received by such licensee. These securities are subject to the approval of the superintendent and shall consist of interest-bearing bonds, notes, or other obligations of the Unites States or any agency or instrumentality thereof, or of the State of California, or of any city, county, or city and county, political subdivision or district of the State of California, or which are guaranteed by the United States or the State of California.

(b) So long as a licensee which maintains securities on deposit with the Treasurer pursuant to this section is solvent, that licensee shall be entitled to receive any interest paid on such securities.

SEC. 11. Section 1812 of the Financial Code is amended to read:

1812. In lieu of the deposit of cash or securities pursuant to Section 1811, a licensee may deliver to the superintendent the bond of a surety company, in form and written by a company satisfactory to the superintendent, in an amount not less than the amount of the deposit of cash or securities required of the licensee, conditioned upon the timely and proper delivery of all transmission money received by such licensee or its agents for such purpose. The superintendent shall deposit such bond with the Treasurer.

SEC. 12. Section 1815 of the Financial Code is repealed.

SEC. 13. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 918

An act to amend Sections 5004, 5004.1, and 5019 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 5004 of the Vehicle Code is amended to read:

5004. (a) Notwithstanding any other provision of this code, any owner of a vehicle described in paragraph (1), (2), or (3) which is operated or moved over the highway primarily for the purpose of historical exhibition or other similar purpose shall, upon application in the manner and at the time prescribed by the department, be issued special identification plates for the vehicle:

(1) A motor vehicle with an engine of 16 or more cylinders manufactured prior to 1965.

(2) A motor vehicle manufactured in the year 1922 or prior thereto.

(3) A vehicle which was manufactured after 1922, is at least 25 years old, and is of historic interest.

(b) The special identification plates assigned to motor vehicles with an engine of 16 or more cylinders manufactured prior to 1965 and to any motor vehicle manufactured in the year 1922 and prior thereto shall run in a separate numerical series, commencing with "Horseless Carriage No. 1".

The special identification plates assigned to vehicles specified in paragraph (3) of subdivision (a) shall run in a separate numerical series, commencing with "Historical Vehicle No. 1".

Each series of plates shall have different and distinguishing colors.

(c) A fee of twenty-five dollars ($25) shall be charged for the initial issuance of the special identification plates. Such plates shall be permanent and shall not be required to be replaced. If such special identification plates become damaged or unserviceable in any manner, replacement for the plates may be obtained from the department upon proper application and upon payment of such fee

as is provided for in Section 9265.

(d) All funds received by the department in payment for such identification plates or the replacement thereof shall be deposited in the California Environmental License Plate Fund.

(e) These vehicles shall not be exempt from the equipment provisions of Sections 26709, 27150, and 27600.

(f) As used in this section, a vehicle is of historic interest if it is collected, restored, maintained, and operated by a collector or hobbyist principally for purposes of exhibition and historic vehicle club activities.

SEC. 2. Section 5004.1 of the Vehicle Code is amended to read:

5004.1. (a) An owner of any motor vehicle eligible for registration pursuant to Section 5004 may, after the requirements for the registration of the motor vehicle have been complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model year date when the vehicle was manufactured, if the model year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code. The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate to be used corresponds to the model year date when the vehicle was manufactured.

Vehicles subject to this section shall display evidence of current registration.

(b) A fee of thirty-five dollars ($35) shall be charged for the application for use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10).

(d) Whenever any person who has been authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars ($12) shall be charged in addition to all other appropriate fees.

(e) Commencing July 1, 1983, applications may be submitted to the department for the use of model-year-date license plates.

SEC. 3. Section 5019 of the Vehicle Code is amended to read:

5019. The authorizations for the issuance of special license plates referred to in Sections 5005 and 5008 do not apply to trailers.

CHAPTER 919

An act to amend Section 2924c of the Civil Code, relating to nonjudicial foreclosure.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including reasonable costs and expenses, subject to the provisions of subdivision (c) of this section, which are actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to the provisions of subdivision (d) of this section), other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose

name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from the date this notice of default was recorded.

This amount is _____ as of _____ ,
(Date)

and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

After three months from the date of recordation of this document (which date of recordation appears hereon), unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____
(Name of beneficiary or mortgagee)

_____
(Mailing address)

(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to this article shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by this article and for a trustee's sale guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, are hereby authorized to be in an amount which does not exceed one hundred fifty dollars ($150) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured

exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

SEC. 1.5. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including reasonable costs and expenses, subject to the provisions of subdivision (c) of this section, which are actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to the provisions of subdivision (d) of this section), other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a

notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from the date this notice of default was recorded. This amount is _____ as of _____ ,
(Date)
and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

After three months from the date of recordation of this document (which date of recordation appears hereon), unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____
(Name of beneficiary or mortgagee)

_____
(Mailing address)

_____
(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Sections 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made

to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed one hundred fifty dollars ($150) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

SEC. 2. This act is declaratory of existing law and is intended to notify debtors and creditors of their ability to enter into workout agreements under previously recorded notices of default. This act shall not be construed as enlarging or diminishing the ability of debtors and creditors under existing principles of law or equity to enter into workout agreements containing terms and conditions other than those described in the notice provision of Section 1 of this act.

SEC. 2.5. Section 1.5 of this bill incorporates amendments to Section 2924c of the Civil Code proposed by both this bill and SB 1706. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 2924c of the Civil Code, and (3) this bill is enacted after SB 1706, in which case Section 2924c of the Civil Code, as amended by SB 1706, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 3. This act shall become operative on July 1, 1985.

CHAPTER 920

An act to amend Section 24045.6 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 24045.6 of the Business and Professions Code is amended to read:

24045.6. (a) The department may issue a special temporary on-sale or off-sale wine license to any nonprofit corporation which is exempt from payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States. An applicant for such a license shall accompany the application with a fee of one hundred dollars ($100).

(b) Such a license shall only entitle the licensee to sell wine bought by, or donated to, the licensee. No such wine shall be sold at less than the minimum retail price therefor, established pursuant to this division. Notwithstanding any other provision of this division, licensees may donate or sell wine to a nonprofit corporation which obtains a special temporary on-sale or off-sale license under this section, provided the donations are not made in connection with a sale of an alcoholic beverage.

(c) Such a license shall be for a period not exceeding two days. Only one such license shall be issued to any corporation in any 12-month period.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the sale of wine at the Half Moon Bay Pumpkin Festival which takes place in October of each year, it is necessary that this act take effect immediately.

CHAPTER 921

An act to amend Section 25175 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 25175 of the Business and Professions Code is amended to read:

25175. Any person who sells at retail any potable spirituous liquor product labeled as whiskey, including blended whiskey and blends of straight whiskeys, except products containing 20 or more percent of straight whiskey or whiskeys which have been aged in charred oak containers for three or more years after distillation and before bottling is guilty of a misdemeanor, except that this section does not prohibit the sale at retail of unaged corn whiskey, when so labeled, or the sale at retail of gins, brandies, rums, cordials, liqueurs, bitters, or other distilled liquor products, or products compounded of distilled spirits and other materials, when in no wise labeled as whiskey or blended whiskey or blends of straight whiskeys, or the sale at retail of Scotch whiskeys, or spirit whiskeys containing not less than 5 percent straight whiskey, three years old or older.

CHAPTER 922

An act to amend Section 1643 of the Insurance Code, relating to insurance.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 1643 of the Insurance Code is amended to read:

1643. No bank, or bank holding company, subsidiary, or affiliate thereof, or any officer or employee of a bank, bank holding company, subsidiary, or affiliate, may be licensed as an insurance agent or broker or act as an agent or broker for insurance, in this state, or control a licensed insurance agent or broker, except that a bank or a bank holding company subsidiary, or affiliate of a bank, may be issued a license to act as a life and disability agent limited to the transaction of credit life and disability insurance, or an agent limited to the transaction of insurance which is limited solely to assuring repayment of the outstanding balance due on a specific extension of credit by a bank or bank holding company or its subsidiary in the event of the involuntary unemployment of the debtor, or both. A commercial bank may be licensed to sell insurance or act as an insurance broker as provided in Section 1208 of the Financial Code. This section shall not apply to any bank or bank holding company which, under the authorization of the Federal Reserve Board, had prior to January 1, 1976, a subsidiary or affiliate licensed to sell insurance (except that subsequent authorization to expand such

activities shall be subject to this section), or to any bank holding company owning a state-chartered bank which had, prior to January 1, 1976, a subsidiary or affiliate licensed to sell insurance. This section shall not apply to any person authorized or licensed to make loans pursuant to Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), Division 10 (commencing with Section 24000), or Division 11 (commencing with Section 26000) of the Financial Code.

For the purposes of this section, the following definitions shall apply:

(a) "Bank" means any institution in this state defined in Section 102 of the Financial Code except that such term does not include a title insurance company authorized to transact a trust business under the provisions of Article 4 (commencing with Section 12390) of Chapter 1 of Part 6 of Division 2 or a trust company controlled by or under common control with a title insurance company.

(b) "Bank holding company" means the same as the definition of that term set forth in Section 2 of the federal Bank Holding Company Act of 1956, as amended, but limited to holding companies which control a bank authorized to accept deposits in this state.

(c) "Subsidiary" means any corporation, association, or partnership, owned in whole or part by a bank or bank holding company.

(d) "Affiliate" means any corporation, association, or partnership connected through the ownership of a 10-percent or greater interest by a common parent.

(e) "Credit life, health, and accident insurance" means insurance on the life and health of a borrower from a bank issued to secure the repayment of the amount borrowed.

(f) "Control" means the possession, by any means, of the power to direct or cause the direction of the management or activities of a licensed insurance agent or broker.

CHAPTER 923

An act to add Section 926.16 to the Government Code, relating to state funds.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 926.16 is added to the Government Code, to read:

926.16. Notwithstanding any other provision of law, no local assistance funds shall be used by any state agency to make penalty payments required under Section 926.15. All penalties shall be paid

from funds appropriated for state administration or from any other fund, other than a local assistance fund, which is designated by the Controller as eligible for use to meet the requirements set forth in Section 926.15.

CHAPTER 924

An act to amend Section 1387 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 1387 of the Penal Code is amended to read:

1387. An order terminating an action pursuant to this chapter, or Section 859b, 861, 871, or 995, is a bar to any other prosecution for the same offense if it is a felony or it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 861, 871, or 995, or if it is a misdemeanor not charged together with a felony, except in those felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds that substantial new evidence has been discovered by the prosecution which would not have been known through the exercise of due diligence at or prior to the time of termination of the action or that the termination of the action was the result of the direct intimidation of a material witness, as shown by a preponderance of the evidence.

An order terminating an action is not a bar to prosecution if a complaint is dismissed before the commencement of a preliminary hearing in favor of an indictment filed pursuant to Section 944 and the indictment is based upon the same subject matter as charged in the dismissed complaint, information, or indictment.

However, if the previous termination was pursuant to Section 859b, 861, 871, or 995, the subsequent order terminating an action is not a bar to prosecution if:

(a) Good cause is shown why the preliminary examination was not held within 60 days from the date of arraignment or plea.

(b) The motion pursuant to Section 995 was granted because of any of the following reasons:

(1) Present insanity of the defendant.

(2) A lack of counsel after the defendant elected to represent himself or herself rather than being represented by appointed counsel.

(3) Ineffective assistance of counsel.

(4) Conflict of interest of defense counsel.

(5) Violation of time deadlines based upon unavailability of defense counsel.

(6) Defendant's motion to withdraw a waiver of the preliminary examination.

(c) The motion pursuant to Section 995 was granted after dismissal by the magistrate of the action pursuant to Section 871 and was recharged pursuant to Section 739.

CHAPTER 925

An act to amend Section 49452.5 of the Education Code, relating to public health.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 49452.5 of the Education Code is amended to read:

49452.5. The governing board of any school district shall, subject to Section 49451 and in addition to the physical examinations required pursuant to Sections 208, 321, and 323.7 of the Health and Safety Code, provide for the screening of every female pupil in grade 7 and every male pupil in grade 8 for the condition known as scoliosis. The screening shall be in accord with standards established by the State Department of Education. The screening shall be supervised only by qualified supervisors of health as specified in Sections 44871 to 44878, inclusive, and Section 49422, or by school nurses employed by the district or the county superintendent of schools, or pursuant to contract with an agency authorized to perform these services by the county superintendent of schools of the county in which the district is located pursuant to Sections 1750 to 1754, inclusive, and Section 49402 of this code, Section 485 of the Health and Safety Code, and guidelines established by the State Board of Education. The screening shall be given only by individuals who supervise, or who are eligible to supervise, the screening, or licensed chiropractors, or by certificated employees of the district or of the county superintendent of schools who have received in-service training, pursuant to rules and regulations adopted by the State Board of Education, to qualify them to perform these screenings. It is the intent of the Legislature that these screenings be performed, at no additional cost to the state, the school district, or the parent or guardian, during the regular schoolday and that any staff time devoted to these activities be redirected from other ongoing activities not related to the pupil's health care.

In-service training may be conducted by orthopedic surgeons, physicians, registered nurses, physical therapists, and chiropractors,

who have received specialized training in scoliosis detection.

Pupils suspected of having scoliosis during the initial screening shall be rescreened by an orthopedic surgeon when there will be no cost to the state, the school district, or the parent or guardian.

No person screening pupils for scoliosis pursuant to this section shall solicit, encourage, or advise treatment or consultation by that person, or any entity in which that person has a financial interest, for scoliosis or any other condition discovered in the course of the screening.

The governing board of any school district shall provide for the notification of the parent or guardian of any pupil suspected of having scoliosis. The notification shall include an explanation of scoliosis, the significance of treating it at an early age, and the public services available, after diagnosis, for treatment. Referral of the pupil and the pupil's parent or guardian to appropriate community resources shall be made pursuant to Sections 49426 and 49456.

No action of any kind in any court of competent jurisdiction shall lie against any individual, authorized by this section to supervise or give a screening, by virtue of the provisions of this section.

In enacting amendments to this section, it is the intent of the Legislature that no participating healing arts licentiate use the screening program for the generation of referrals or for his or her financial benefit. The Legislature does not intend to deny or limit the freedom of choice in the selection of an appropriate health care provider for treatment or consultation.

CHAPTER 926

An act to amend Sections 25635 and 25640 of the Public Resources Code, relating to energy resources, and making an appropriation therefor.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 25635 of the Public Resources Code is amended to read:

25635. The commission shall submit a report biennially to the Chairmen of the Senate Finance Committee, the Assembly Ways and Means Committee, and the Joint Legislative Budget Committee on the status and results of projects and their funding, including recommendations for legislation and identifying those state and federal financial incentives which can best accelerate and maximize the development of demonstrated bioconversion technologies.

SEC. 2. Section 25640 of the Public Resources Code is amended to read:

25640. (a) The money in the account shall be used for the following purposes:

(1) Ten million dollars ($10,000,000) for funding projects pursuant to subdivision (c) of Section 25633.

(2) For each fiscal year, funds for administering this chapter shall be appropriated in the Budget Act from the State Energy Resources Conservation and Development Special Account.

(b) The commission may contract for services to be performed in order to carry out the provisions of this chapter. Those services may include, but are not limited to, environmental control assessment, feasibility analysis, and the review of project design, field management responsibilities, and project scheduling and control.

(c) All unobligated money in the account at the end of December 31, 1990, and each year thereafter, shall revert to the General Fund unless reappropriated by the Legislature.

CHAPTER 927

An act to amend Sections 488.450 and 700.130 of the Code of Civil Procedure, to amend Sections 1102, 1201, 5114, 9103, 9105, 9203, 9302, 9304, 9305, 9306, 9309, and 9312 of, to add Division 8 (commencing with Section 8101) and Division 12 (commencing with Section 12101) to, and to repeal Division 8 (commencing with Section 8101) of, the Commercial Code, and to amend Sections 416 and 418 of the Corporations Code, relating to commercial transactions.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 488.450 of the Code of Civil Procedure is amended to read:

488.450. To attach a security, the levying officer shall comply with Section 8317 of the Commercial Code. The legal process referred to in Section 8317 of the Commercial Code means the legal process required by the state in which the chief executive office of the issuer of the security is located and, where that state is California, means personal service by the levying officer of a copy of the writ of execution and notice of levy on the person who is to be served.

SEC. 2. Section 700.130 of the Code of Civil Procedure is amended to read:

700.130. To levy upon a security, the levying officer shall comply with Section 8317 of the Commercial Code. The legal process referred to in Section 8317 of the Commercial Code means the legal process required by the state in which the chief executive office of the issuer of the security is located and, where that state is California, means personal service by the levying officer of a copy of the writ

of execution and notice of levy on the person who is to be served.

SEC. 2.5. Section 1102 of the Commercial Code is amended to read:

1102. (1) This code shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this code are

(a) To simplify, clarify and modernize the law governing commercial transactions;

(b) To permit the continued expansion of commercial practices through custom, usage and agreement of the parties;

(c) To make uniform the law among the various jurisdictions.

(3) The effect of provisions of this code may be varied by agreement, except as otherwise provided in this code and except that the obligations of good faith, diligence, reasonableness and care prescribed by this code may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations is to be measured if such standards are not manifestly unreasonable.

(4) The presence in certain provisions of this code of the words "unless otherwise agreed" or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subdivision (3).

(5) In this code unless the context otherwise requires

(a) Words in the singular number include the plural, and in the plural include the singular;

(b) Words of the masculine or feminine gender include the masculine, the feminine, and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.

SEC. 3. Section 1201 of the Commercial Code is amended to read:

1201. Subject to additional definitions contained in the subsequent divisions of this code which are applicable to specific divisions or chapters thereof, and unless the context otherwise requires, in this code:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this code (Sections 1205 and 2208). Whether an agreement has legal consequences is determined by the provisions of this code, if applicable; otherwise by the law of contracts (Section 1103). (Compare "contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and which, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "bill of lading" is conclusive evidence of such intention. "Bill of lading" includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or mineralhead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for, or in total or partial satisfaction of, a money debt.

(10) "Conspicuous." A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this code and any other applicable rules of law. (Compare "agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, compress receipt, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this code to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or a certificated investment security drawn, issued or indorsed to him or her or to his or her order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary course of business or cannot pay his or her debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when any of the following occurs:

(a) He or she has actual knowledge of it.

(b) He or she has received a notice or notification of it.

(c) From all the facts and circumstances known to him or her at the time in question, he or she has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform

the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when any of the following occurs:

(a) It comes to his or her attention.

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his or her regular duties or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this division.

(30) "Person" includes an individual or an organization. (See Section 1102.)

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to Division 9 (commencing with Section 9101). The special property interest of a buyer of goods on identification of the goods to a contract for sale under Section 2501 is not a "security interest," but a buyer may also acquire a "security interest" by complying with

Division 9 (commencing with Section 9101). Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (Section 2326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending. When a writing or notice is required to be sent by registered or certified mail, proof of mailing is sufficient, and proof of receipt by the addressee is not required unless the words "with return receipt requested" are also used.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3303, 4208 and 4209), a person gives "value" for rights if he or she acquires them in any of the following ways:

(a) In return for a binding commitment to extend credit or for the extention of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection.

(b) As security for, or in total or partial satisfaction of, a preexisting claim.

(c) By accepting delivery pursuant to a preexisting contract for purchase.

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a document evidencing the receipt of goods for storage issued by a warehouseman (Section 7102), and which, by its terms, evidences the intention of the issuer

that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "warehouse receipt" is conclusive evidence of such intention.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

SEC. 4. Section 5114 of the Commercial Code is amended to read:

5114. (1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed, when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (Section 7507) or of a certificated security (Section 8306) or is forged or fraudulent or there is fraud in the transaction:

(a) The issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 3302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 7501) or a bona fide purchaser of a certificated security (Section 8302).

(b) In all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents.

(3) Unless otherwise agreed, an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

SEC. 5. Division 8 (commencing with Section 8101) of the Commercial Code is repealed.

SEC. 6. Division 8 (commencing with Section 8101) is added to the Commercial Code, to read:

DIVISION 8. INVESTMENT SECURITIES

CHAPTER 1. SHORT TITLE AND GENERAL MATTERS

8101. This division shall be known and may be cited as the Uniform Commercial Code-Investment Securities.

8102. (1) In this division, unless the context otherwise requires:

(a) A "certificated security" is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is all of the following:

(i) Represented by an instrument issued in bearer or registered form.

(ii) Of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment.

(iii) Either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(b) An "uncertificated security" is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is all of the following:

(i) Not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer.

(ii) Of a type commonly dealt in on securities exchanges or markets.

(iii) Either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(iv) Not a limited partnership interest in a limited partnership.

(c) A "security" is either a certificated or an uncertificated security. If a security is certificated, the terms "security" and "certificated security" may mean either the intangible interest, the instrument representing that interest, or both, as the context requires. A writing that is a certificated security is governed by this division and not by Division 3 (commencing with Section 3101), even though it also meets the requirements of that division. This division does not apply to money. If a certificated security has been retained by or surrendered to the issuer or its transfer agent, for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for the purposes of this division.

(d) A certificated security is in "registered form" if both of the following apply:

(i) It specifies a person entitled to the security or the rights it represents.

(ii) Its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security so states.

(e) A certificated security is in "bearer form" if it runs to bearer according to its terms and not by reason of any indorsement.

(2) A "subsequent purchaser" is a person who takes other than by original issue.

(3) A "clearing corporation" is a corporation registered as a "clearing agency" under the federal securities laws or a corporation as to which both of the following are applicable:

(a) At least 90 percent of whose capital stock is held by or for one or more organizations, none of which, other than a national securities exchange or association, holds in excess of 20 percent of the capital

stock of the corporation, and each of which is any of the following:

(i) Subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws.

(ii) A broker or dealer or investment company registered under the federal securities laws.

(iii) A national securities exchange or association registered under the federal securities laws.

(b) Any remaining capital stock of which is held by individuals who have purchased it at, or prior to, the time of their taking office as directors of the corporation and who have purchased only so much of the capital stock as is necessary to permit them to qualify as directors.

(4) A "custodian bank" is a bank or trust company that is supervised and examined by state or federal authority having supervision over banks and is acting as custodian for a clearing corporation.

(5) Other definitions applying to this division or to specified chapters thereof and the sections in which they appear are:

"Adverse claim"	Section 8302
"Bona fide purchaser"	Section 8302
"Broker"	Section 8303
"Debtor"	Section 9105
"Financial intermediary"	Section 8313
"Guarantee of the signature"	Section 8402
"Initial transaction statement"	Section 8408
"Instruction"	Section 8308
"Intermediary bank"	Section 4105
"Issuer"	Section 8201
"Overissue"	Section 8104
"Secured party"	Section 9105
"Security agreement"	Section 9105

(6) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

(7) A writing may be an "instrument" under this division notwithstanding that it is not an "instrument" as defined in Division 3 (commencing with Section 3101).

8103. A lien upon a security in favor of an issuer thereof is valid against a purchaser only if either of the following occurs:

(a) The security is certificated and the right of the issuer to the lien is noted conspicuously thereon.

(b) The security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statement sent to the purchaser or, if his or her interest is transferred to him or her other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

8104. (1) The provisions of this division which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue; but if

(a) An identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase the security for him or her and either deliver a certificated security or register the transfer of an uncertificated security to him or her, against surrender of any certificated security he or she holds.

(b) A security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or she or the last purchaser for value paid for it with interest from the date of his or her demand.

(2) "Overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue.

8105. (1) Certificated securities governed by this division are negotiable instruments.

(2) Statements (Section 8408), notices, or the like, sent by the issuer of uncertificated securities and instructions (Section 8308) are neither negotiable instruments nor certificated securities.

(3) All of the following in any action on a security apply:

(a) Unless specifically denied in the pleadings, each signature on a certificated security, in a necessary indorsement, on an initial transaction statement, or on an instruction, is admitted.

(b) If the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

(c) If signatures on a certificated security are admitted or established, production of the security entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

(d) If signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance.

(e) After it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect is ineffective (Section 8202).

8106. The law of the jurisdiction of organization of the issuer governs the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to all of the following:

(a) Registration of transfer of a certificated security.

(b) Registration of transfer, pledge, or release of an uncertificated security.

(c) Sending of statements of uncertificated securities.

8107. (1) Unless otherwise agreed, a person obligated to transfer securities may transfer a like number of units of any certificated or uncertificated securities which by nature or usage of trade are the

equivalent of the securities he or she is obligated to transfer.

(2) Where pursuant to a contract to sell or a sale, a security has been delivered or tendered to the purchaser, and the purchaser wrongfully fails to pay for the security according to the contract or the sale, the seller may, as an alternative to any other remedy, recover the agreed price of:

(a) Certificated securities accepted by the buyer.

(b) Uncertificated securities that have been transferred to the buyer or a person designated by the buyer.

This subdivision does not affect the remedy of a seller if the security has not been delivered or tendered.

8108. A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by him or her. There can be no more than one registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated security under this division are terminated by the registration of release.

8109. Nothing in this division shall be construed to modify any of the provisions of the Corporate Securities Law, the Insurance Code, the Financial Code, or the Public Utilities Code.

CHAPTER 2. ISSUE-ISSUER

8201. (1) With respect to obligations on or defenses to a security, "issuer" includes a person who does any of the following:

(a) Places or authorizes the placing of his or her name on a certificated security (otherwise than as an authenticating trustee, registrar, transfer agent, or the like) to evidence that it represents a share, participation, or other interest in his or her property or in an enterprise, or to evidence his or her duty to perform an obligation represented by the certificated security.

(b) Creates shares, participations, or other interests in his or her property, or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities.

(c) Directly or indirectly creates fractional interests in his or her rights or property, which fractional interests are represented by certificated securities.

(d) Becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of his or her guaranty, whether or not his or her obligation is noted on a certificated security or on statements of uncertificated securities sent pursuant to Section 8408.

(3) With respect to registration of a transfer, pledge, or release (Chapter 4 (commencing with Section 8401)), "issuer" means a person on whose behalf transfer books are maintained.

8202. (1) Even against a purchaser for value and without notice, the terms of a security include all the following:

(a) If the security is certificated, those stated on the security.

(b) If the security is uncertificated, those contained in the initial transaction statement sent to the purchaser or, if his or her interest is transferred to him or her other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee.

(c) Those made part of the security by reference, on the certificated security or in the initial transaction statement, to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms so referred to do not conflict with the terms on the certificated security or contained in the statement. A reference under this paragraph does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even though the certificated security or statement expressly states that a person accepting it admits notice.

(2) A certificated security in the hands of a purchaser for value or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value, other than a security issued by a government or governmental agency or unit, even though issued with a defect going to its validity, is valid with respect to the purchaser if he or she is without notice of the particular defect unless the defect involves a violation of constitutional provisions, in which case the security is valid with respect to a subsequent purchaser for value and without notice of the defect. This subdivision applies to an issuer that is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as provided in the case of certain unauthorized signatures (Section 8205), lack of genuineness of a certificated security or an initial transaction statement is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer of a certificated or uncertificated security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

8203. (1) After an act or event creating a right to immediate performance of the principal obligation represented by a certificated security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer if the following occur:

(a) The act or event is one requiring the payment of money, the delivery of certificated securities, the registration of transfer of un-

certificated securities, or any of these on presentation or surrender of the certificated security, the funds or securities are available on the date set for payment or exchange, and he or she takes the security more than one year after that date.

(b) The act or event is not covered by paragraph (a) and he or she takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.

(2) A call that has been revoked is not within subdivision (1).

8204. A restriction on transfer of a security imposed by the issuer, even though otherwise lawful, is ineffective against any person without actual knowledge of it unless either of the following applies:

(a) The security is certificated and the restriction is noted conspicuously thereon.

(b) The security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person or, if his or her interest is transferred to him or her other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

8205. An unauthorized signature placed on a certificated security prior to or in the course of issue or placed on an initial transaction statement is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the lack of authority and the signing has been done by any of the following:

(a) An authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security, of similar securities, or of initial transaction statements or the immediate preparation for signing of any of them.

(b) An employee of the issuer, or of any of the foregoing, entrusted with responsible handling of the security or initial transaction statement.

8206. (1) If a certificated security contains the signatures necessary to its issue or transfer but is incomplete in any other respect, then the following apply:

(a) Any person may complete it by filling in the blanks as authorized.

(b) Even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(2) A complete certificated security that has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.

(3) If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect, then the following are applicable:

(a) Any person may complete it by filling in the blanks, as authorized.

(b) Even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if he or she purchased the security referred to therein for value and without notice of the incorrectness.

(4) A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

8207. (1) Prior to due presentment for registration of transfer of a certificated security in registered form, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(2) Subject to the provisions of subdivisions (3), (4), and (6), the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(3) The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

(4) Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall perform one of the following:

(a) Register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee.

(b) Register the transfer of the security to the new owner, subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee.

(c) Register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.

(5) Continuity of perfection of a security interest is not broken by registration of transfer under paragraph (b) of subdivision (4) or by registration of release and pledge under paragraph (c) of subdivision (4), if the security interest is assigned.

(6) If an uncertificated security is subject to a registered pledge, then the following shall occur:

(a) Any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge.

(b) Any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee.

(c) Any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

(7) Nothing in this division shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

8208. (1) A person placing his or her signature upon a certificated security or an initial transaction statement as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect, that all of the following apply:

(a) The certificated security or initial transaction statement is genuine.

(b) His or her own participation in the issue or registration of the transfer, pledge, or release of the security is within his or her capacity and within the scope of the authority received by him or her from the issuer.

(c) He or she has reasonable grounds to believe the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his or her signature does not assume responsibility for the validity of the security in other respects.

CHAPTER 3. PURCHASE

8301. (1) Upon transfer of a security to a purchaser (Section 8313), the purchaser acquires the rights in the security which his or her transferor had or had actual authority to convey unless the purchaser's rights are limited by subdivision (4) of Section 8302.

(2) A transferee of a limited interest acquires rights only to the extent of the interest transferred. The creation or release of a security interest in a security is the transfer of a limited interest in that security.

8302. (1) A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim as to whom any of the following apply:

(a) Who takes delivery of a certificated security in bearer form or in registered form, issued or indorsed to him or her or in blank.

(b) To whom the transfer, pledge, or release of an uncertificated security is registered on the books of the issuer.

(c) To whom a security is transferred under the provisions of paragraph (c), (d) (i), or (g) of subdivision (1) of Section 8313.

(2) "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (Section 8301) also acquires his or her interest in the security free of any adverse claim.

(4) Notwithstanding subdivision (1) of Section 8301, the transferee of a particular security who has been a party to any fraud or illegality affecting the security, or who as a prior owner of that secu-

rity had notice of an adverse claim, cannot improve his or her position by taking from a bona fide purchaser.

(5) Nothing contained in this section shall affect the priorities of secured parties determined in accordance with Section 8321 and Division 9 (commencing with Section 9101).

8303. "Broker" means a person engaged for all or part of his or her time in the business of buying and selling securities, who in the transaction concerned acts for, buys a security from, or sells a security to, a customer. Nothing in this division determines the capacity in which a person acts for purposes of any other statute or rule to which the person is subject.

8304. (1) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

(a) The security, whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer.

(b) The security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under subdivision (4) of Section 8403 at the time of registration and which are noted in the initial transaction statement sent to the purchaser or, if his or her interest is transferred to him or her other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

(3) The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

8305. An act or event that creates a right to immediate performance of the principal obligation represented by a certificated security or sets a date on or after which a certificated security is to be presented or surrendered for redemption or exchange does not itself constitute any notice of adverse claims except in the case of a transfer:

(a) After one year from any date set for presentment or surrender for redemption or exchange.

(b) After six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

8306. (1) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that he or she is entitled to the registration, payment, or exchange. But, a purchaser for value and without notice of adverse claims who receives a new, reissued, or reregistered certificated security on registration of transfer or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to him or her warrants only that he or she has no knowledge of any unauthorized signature (Section 8311) in a necessary indorsement.

(2) A person by transferring a certificated security to a purchaser for value warrants only that all of the following:

(a) His or her transfer is effective and rightful.

(b) The security is genuine and has not been materially altered.

(c) He or she knows of no fact which might impair the validity of the security.

(3) If a certificated security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against delivery, the intermediary by delivery warrants only his or her own good faith and authority, even though he or she has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers a certificated security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subdivision (3).

(5) A person who originates an instruction warrants to the issuer that all of the following:

(a) He or she is an appropriate person to originate the instruction.

(b) At the time the instruction is presented to the issuer, he or she will be entitled to the registration of transfer, pledge, or release.

(6) A person who originates an instruction warrants to any person specially guaranteeing his or her signature (subdivision (3) of Section 8312) that all of the following:

(a) He or she is an appropriate person to originate the instruction.

(b) At the time the instruction is presented to the issuer:

(i) He or she will be entitled to the registration of transfer, pledge, or release.

(ii) The transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(7) A person who originates an instruction warrants all of the following to a purchaser for value and to any person guaranteeing the instruction (subdivision (6) of Section 8312):

(a) He or she is an appropriate person to originate the instruction.

(b) The uncertificated security referred to therein is valid.

(c) At the time the instruction is presented to the issuer:

(i) The transferor will be entitled to the registration of transfer, pledge, or release.

(ii) The transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(iii) The requested transfer, pledge, or release will be rightful.

(8) If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that he or she is an appropriate person to originate the instruction and, at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs (b) and subparagraphs (ii) and (iii) of paragraph (c), of subdivision (7).

(9) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants only that all of the following:

(a) His or her transfer is effective and rightful.

(b) The uncertificated security is valid.

(10) A broker gives to his or her customer and to the issuer and a purchaser the applicable warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of his or her customer.

8307. If a certificated security in registered form has been delivered to a purchaser without a necessary indorsement, he or she may become a bona fide purchaser only as of the time the indorsement is supplied; but against the transferor, the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

8308. (1) An indorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or his or her signature is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) An indorsement purporting to be only a part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is any of the following:

(a) A writing signed by an appropriate person.

(b) A communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

(6) "An appropriate person" in subdivision (1) means the person specified by the certificated security or by special indorsement to be entitled to the security.

(7) "An appropriate person" in subdivision (5) means:

(a) For an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner.

(b) For an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subdivisions (6) and (7), "an appropriate person" in subdivisions (1) and (5) includes all of the following:

(a) If the person designated is described as a fiduciary but is no longer serving in the described capacity, either that person or his or her successor.

(c) If the person designated is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise, his or her executor, administrator, guardian, or like fiduciary.

(d) If the persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, the survivor or survivors.

(e) A person having power to sign under applicable law or controlling instrument.

(f) To the extent that the person designated or any of the foregoing persons may act through an agent, his or her authorized agent.

(9) Unless otherwise agreed, the indorser of a certificated security by his or her indorsement or the originator of an instruction by his or her origination assumes no obligation that the security will be honored by the issuer but only the obligations provided in Section 8306.

(10) Whether the person signing is appropriate is determined as of the date of signing and an indorsement made by or an instruction originated by him or her does not become unauthorized for the purposes of this division by virtue of any subsequent change of circumstances.

(11) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render his or her

indorsement or an instruction originated by him or her unauthorized for the purposes of this division.

8309. An indorsement of a certificated security, whether special or in blank, does not constitute a transfer until delivery of the certificated security on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificated security.

8310. An indorsement of a certificated security in bearer form may give notice of adverse claims (Section 8304) but does not otherwise affect any right to registration the holder possesses.

8311. Unless the owner or pledgee has ratified an unauthorized indorsement or instruction or is otherwise precluded from asserting its ineffectiveness, both of the following apply:

(a) He or she may assert its ineffectiveness against the issuer or any purchaser, other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or reregistered certificated security on registration of transfer or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to him or her.

(b) An issuer who registers the transfer of a certificated security upon the unauthorized indorsement or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction is subject to liability for improper registration (Section 8404).

8312. (1) Any person guaranteeing a signature of an indorser of a certificated security warrants all of the following at the time of signing:

(a) The signature was genuine.

(b) The signer was an appropriate person to indorse (Section 8308).

(c) The signer had legal capacity to sign.

(2) Any person guaranteeing a signature of the originator of an instruction warrants all of the following at the time of signing:

(a) The signature was genuine.

(b) The signer was an appropriate person to originate the instruction (Section 8308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of the security, as to which fact the signature guarantor makes no warranty.

(c) The signer had legal capacity to sign.

(d) The taxpayer identification number, if any, appearing on the instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

(3) Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature guarantor (subdivision (2)) but also warrants all of the following at the time the instruction is presented to the issuer:

(a) The person specified in the instruction as the registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee.

(b) The transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(4) The guarantor under subdivisions (1) and (2) or the special guarantor under subdivision (3) does not otherwise warrant the rightfulness of the particular transfer, pledge, or release.

(5) Any person guaranteeing an indorsement of a certificated security makes not only the warranties of a signature guarantor under subdivision (1) but also warrants the rightfulness of the particular transfer in all respects.

(6) Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subdivision (3) but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

(7) No issuer may require a special guarantee of signature (subdivision (3)), a guarantee of indorsement (subdivision (5)), or a guarantee of instruction (subdivision (6)) as a condition to registration of transfer, pledge, or release.

(8) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee, and the guarantor is liable to the person for any loss resulting from breach of the warranties.

8313. (1) Transfer of a security or a limited interest (including a security interest as indicated in Section 8321) therein to a purchaser occurs only:

(a) At the time he or she or a person designated by him or her acquires possession of a certificated security.

(b) At the time the transfer, pledge, or release of an uncertificated security is registered to him or her or a person designated by him or her.

(c) At the time his or her financial intermediary acquires possession of a certificated security specially indorsed to or issued in the name of the purchaser.

(d) At the time a financial intermediary, not a clearing corporation, sends him or her confirmation of the purchase and also by book entry or otherwise identifies as belonging to the purchaser any of the following:

(i) A specific certificated security in the financial intermediary's possession.

(ii) A quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary.

(iii) A quantity of securities that constitute or are part of a fungi-

ble bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary.

(e) With respect to an identified certificated security to be delivered while still in the possession of a third person, not a financial intermediary, at the time that person acknowledges that he or she holds for the purchaser.

(f) With respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a financial intermediary, at the time that person acknowledges that he or she holds for the purchaser.

(g) At the time appropriate entries to the account of the purchaser or a person designated by him or her on the books of a clearing corporation are made under Section 8320.

(h) With respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by any of the following:

(i) A financial intermediary on whose books the interest of the transferor in the security appears.

(ii) A third person, not a financial intermediary, in possession of the security, if it is certificated.

(iii) A third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge.

(iv) A third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge.

(i) With respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party.

(j) With respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraph (a), (b), (c), (d), or (g), at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

(2) The purchaser is the owner of a security held for him or her by a financial intermediary, but cannot be a bona fide purchaser of a security so held except in the circumstances specified in paragraph (c), subparagraph (i) of paragraph (d), and paragraph (g) of subdivision (1). If a security so held is part of a fungible bulk, as in the circumstances specified in subparagraphs (ii) and (iii) of paragraph (d) of subdivision (1), the purchaser is the owner of a proportionate property interest in the fungible bulk.

(3) Notice of an adverse claim received by the financial inter-

mediary or by the purchaser after the financial intermediary takes delivery of a certificated security as a holder for value or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value is not effective either as to the financial intermediary or as to the purchaser. However, as between the financial intermediary and the purchaser, the purchaser may demand transfer of an equivalent security as to which no notice of an adverse claim has been received.

(4) A "financial intermediary" is a bank, broker, clearing corporation, or other person (or the nominee of any of them) which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

8314. (1) Unless otherwise agreed, if a sale of a security is made on an exchange or otherwise through brokers:

(a) The selling customer fulfills his or her duty to transfer at the time he or she does any of the following:

(i) Places a certificated security in the possession of the selling broker or a person designated by the broker.

(ii) Causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker.

(iii) If requested, causes an acknowledgment to be made to the selling broker that a certificated or uncertificated security is held for the broker.

(iv) Places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within 30 days thereafter.

(b) The selling broker, including a correspondent broker acting for a selling customer, fulfills his or her duty to transfer at the time he or she does any of the following:

(i) Places a certificated security in the possession of the buying broker or a person designated by the buying broker.

(ii) Causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker.

(iii) Places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within 30 days thereafter.

(iv) Effects clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as provided in this section or unless otherwise agreed, a transferor's duty to transfer a security under a contract of purchase is not fulfilled until he or she does any of the following:

(a) Places a certificated security in a form to be negotiated by the purchaser in the possession of the purchaser or of a person designat-

ed by the purchaser.

(b) Causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser.

(c) If the purchaser requests, causes an acknowledgment to be made to the purchaser that a certificated or uncertificated security is held for the purchaser.

(3) Unless made on an exchange, a sale to a broker purchasing for his or her own account is within subdivision (2) and not within subdivision (1).

8315. (1) Any person against whom the transfer of a security is wrongful for any reason, including lack of delivery of a certificated security or his or her incapacity, as against any purchaser except a bona fide purchaser, may do any of the following:

(a) Reclaim possession of the certificated security wrongfully transferred.

(b) Obtain possession of any new certificated security representing all or part of the same rights.

(c) Compel the origination of an instruction to transfer to him or her or a person designated by him or her an uncertificated security constituting all or part of the same rights.

(d) Have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement of a certificated security, the owner may also reclaim or obtain possession of the security or a new certificated security, even from a bona fide purchaser, if the ineffectiveness of the purported indorsement can be asserted against him or her under the provisions of this division on unauthorized indorsements (Section 8311).

(3) The right to obtain or reclaim possession of a certificated security or to compel the origination of a transfer instruction may be specifically enforced and the transfer of a certificated or uncertificated security enjoined and a certificated security impounded pending the litigation.

8316. Unless otherwise agreed, the transferor of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security on due demand must supply his or her purchaser with any proof of his or her authority to transfer, pledge, or release or with any other requisite necessary to obtain registration of the transfer, pledge, or release of the security; but if the transfer, pledge, or release is not for value, a transferor, pledgor, or pledgee need not do so unless the purchaser furnishes the necessary expenses. Failure within a reasonable time to comply with a demand made gives the purchaser the right to reject or rescind the transfer, pledge, or release.

8317. (1) Subject to the exceptions in subdivisions (3), (4), and (5), no attachment or levy upon a certificated security or any share or other interest represented thereby which is outstanding is valid until: (a) the security is actually seized by the officer making the attachment or levy, or (b) in the case of a security held in escrow pursuant to the provisions of the Corporate Securities Law, a copy

of the writ and a notice that the securities are attached or levied upon in pursuance of such writ is served upon the escrow holder; but a certificated security which has been surrendered to the issuer may be reached by a creditor by legal process at the issuer's chief executive office in the United States.

(2) Subject to subdivision (5), an uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process upon the issuer at the issuer's chief executive office in the United States.

(3) The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

(5) The interest of a debtor in a certificated security that is in the possession of or registered in the name of an escrowholder and held in such escrow pursuant to the provisions of the Corporate Securities Law or in an uncertificated security registered in the name of an escrowholder pursuant to the provisions of the Corporate Securities Law may be reached by a creditor by legal process upon the escrowholder.

(6) Unless otherwise provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subdivision (3), (4), or (5) is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party, financial intermediary, or escrowholder, subject to any claims having priority.

(7) A creditor whose debtor is the owner of a security is entitled to aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching the security or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by ordinary legal process.

8318. An agent or bailee who in good faith (including observance of reasonable commercial standards if he or she is in the business of buying, selling, or otherwise dealing with securities) has received certificated securities and sold, pledged, or delivered them or has sold or caused the transfer or pledge of uncertificated securities over which he or she had control according to the instructions of his or her principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right so to deal with the securities.

8319. (1) A contract for the sale of securities is not enforceable by way of action or defense unless any of the following conditions exist:

(a) There is some writing signed by the party against whom enforcement is sought or by his or her authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price.

(b) Delivery of a certificated security or transfer instruction has been accepted, transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within 10 days after receipt of the initial transaction statement confirming the registration, or payment has been made, but the contract is enforceable under this provision only to the extent of the delivery, registration, or payment.

(c) Within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under paragraph (a) has been received by the party against whom enforcement is sought and he or she has failed to send written objection to its contents within 10 days after its receipt.

(2) A contract relating to the purchase or sale of securities between a broker acting as an agent and his or her principal is not subject to the provisions of this section.

8320. (1) In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor by the amount of the obligation or the number of shares or rights transferred, pledged, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation is subject to the control of the clearing corporation, and if the following apply:

(a) If certificated, it is both:

(i) In the custody of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.

(ii) In bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation, a custodian bank, or a nominee of any of them.

(b) If uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.

(2) Under this section entries may be made with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers, pledges, or releases of the same security.

(3) A transfer under this section is effective (Section 8313) and the purchaser acquires the rights of the transferor (Section 8301). A

pledge or release under this section is the transfer of a limited interest. If a pledge or the creation of a security interest is intended, the security interest is perfected at the time when both value is given by the pledgee and the appropriate entries are made (Section 8321). A transferee or pledgee under this section may be a bona fide purchaser (Section 8302).

(4) A transfer or pledge under this section is not a registration of transfer under Chapter 4 (commencing with Section 8401).

(5) That entries made on the books of the clearing corporation as provided in subdivision (1) are not appropriate does not affect the validity or effect of the entries or the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

8321. (1) A security interest in a security is enforceable and can attach only if both:

(a) The security, if certificated, is in the possession of the secured party pursuant to agreement, or, as to any other certificated security and any uncertificated security, the debtor has signed a security agreement which contains a description of the security.

(b) The security is transferred to the secured party or a person designated by him or her pursuant to a provision of subdivision (1) of Section 8313.

(2) A security interest so transferred pursuant to agreement by a transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph (i) of subdivision (1) of Section 8313 becomes unperfected after 21 days unless, within that time, the requirements for transfer under any other provision of subdivision (1) of Section 8313 are satisfied. A security interest is perfected by possession of a certificated security from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this division. The security interest may be otherwise perfected as provided in this division before or after the period of possession by the secured party.

(3) A security interest in a security is subject to the provisions of Division 9 (commencing with Section 9101), except as follows:

(a) No filing is required to perfect the security interest.

(b) In the case of an uncertificated security, the first person to perfect a security interest using registration under paragraph (b) of subdivision (1) of Section 8313 has priority over any other earlier or subsequent secured party except a secured party that meets the requirements of subdivision (4) of Section 9312.

The secured party has the rights and duties provided under Section 9207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in his or her possession.

(4) Unless otherwise agreed, a security interest in a security (and the proceeds thereof) is terminated by transfer from the secured party to the debtor or a person designated by him or her pursuant to a provision of subdivision (1) of Section 8313. If a security is thus

transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after 21 days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by him or her pursuant to a provision of subdivision (1) of Section 8313.

(5) Any action otherwise required by this division is not necessary or effective to perfect a security interest in a security issued by the federal government or any agency or instrumentality thereof if a federal statute or regulation provides a method for perfection of the security interest different from those specified in this division. A security interest in such a security that is perfected in accordance with such a federal statute or regulation is a perfected security interest. To the extent not prohibited by federal law, a security interest in such a security that has been granted pursuant to agreement by a transferor who has rights in the security to a transferee who has given value but as to which the transferee has not taken an action required for perfection by an applicable federal statute or regulation is a perfected security interest, but such a security interest becomes unperfected after 21 days unless, within that time, this perfection requirement is satisfied.

CHAPTER 4. REGISTRATION

8401. (1) If a certificated security in registered form is presented to the issuer with a request to register a transfer or an instruction is presented to the issuer with a request to register a transfer, pledge, or release, the issuer shall register the transfer, pledge, or release as requested if all of the following conditions have been met:

(a) The security is indorsed or the instruction was originated by the appropriate person or persons (Section 8308).

(b) Reasonable assurance is given that those indorsements or instructions are genuine and effective (Section 8402).

(c) The issuer has no duty as to adverse claims or has discharged the duty (Section 8403).

(d) Any applicable law relating to the collection of taxes has been complied with.

(2) If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is liable to the person presenting a certificated security or an instruction for registration or his or her principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer, pledge, or release, but in any case the plaintiff must allege and prove that the transfer, pledge, or release requested was in fact rightful or that he or she was a bona fide purchaser.

(3) Notwithstanding subdivision (1), if the issuer of an uncertificated security not subject to a registered pledge is presented with

an instruction from an appropriate person requesting the registration of pledge and the issuer regularly maintains a system for issuing certificated securities to the category of owners which includes the registered owner, the issuer may elect to treat the instruction as a transfer instruction under subdivision (3) of Section 8407. If the issuer so elects, the issuer shall, in lieu of registering the pledge, do all of the following:

(a) Cancel the uncertificated security.

(b) Issue, in the name of the registered owner, an equivalent certificated security on which shall be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security was subject.

(c) Deliver the certificated security to the registered owner.

(d) Notify the intended registered pledgee that the issuer has so elected.

8402. (1) The issuer may require the following assurance that each necessary indorsement of a certificated security or each instruction (Section 8308) is genuine and effective:

(a) In all cases, a guarantee of the signature (subdivision (1) or (2) of Section 8312) of the person indorsing a certificated security or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity.

(b) If the indorsement is made or the instruction is originated by an agent, appropriate assurance of authority to sign.

(c) If the indorsement is made or the instruction is originated by a fiduciary, appropriate evidence of appointment or incumbency.

(d) If there is more than one fiduciary, reasonable assurance that all who are required to sign have done so.

(e) If the indorsement is made or the instruction is originated by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subdivision (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subdivision (1) means:

(a) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within 60 days before the date of presentation for transfer, pledge, or release.

(b) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of that document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to the evidence if they are not manifestly unreasonable. The issuer

is not charged with notice of the contents of any document obtained pursuant to this paragraph except to the extent that the contents relate directly to the appointment or incumbency.

8403. (1) An issuer to whom a certificated security is presented for registration shall inquire into adverse claims if a written notification of an adverse claim is received at a time and in a manner affording the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued, or reregistered certificated security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant.

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or her or, if there be no such address, at his or her residence or regular place of business that the certificated security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within 30 days from the date of mailing the notification, either:

(a) An appropriate restraining order, injunction, or other process issues from a court of competent jurisdiction.

(b) There is filed with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by complying with the adverse claim.

(3) Unless an issuer receives a notification of an adverse claim under subdivision (1), if a certificated security presented for registration is indorsed by the appropriate person or persons, the issuer is under no duty to inquire into adverse claims.

(4) An issuer registering a certificated security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship; and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security.

(5) An issuer registering a transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the ransfer even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or herself or to his or her nominee.

(6) The issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or herself or to his or her nominee.

(7) An issuer is under no duty as to adverse claims with respect to an uncertificated security except as to all of the following:

(a) Claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subdivision (8).

(b) Claims of which the issuer has received a written notification from a registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subdivision (8).

(c) Claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to him or her.

(8) If the issuer of an uncertificated security is under a duty as to an adverse claim, he or she discharges that duty by both:

(a) Including a notation of the claim in any statements sent with respect to the security under subdivisions (3), (6), and (7) of Section 8408.

(b) Refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

(9) If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under Section 8408.

(10) Notwithstanding subdivisions (7) and (8), if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless any of the following apply:

(a) The claim was embodied in legal process which expressly provides otherwise.

(b) The claim was asserted in a written notification from the registered pledgee.

(c) The transfer requested is to the registered owner.

(11) (a) No person who participates in the acquisition, disposition, assignment, or transfer of a certificated security or in the pledge, release, or transfer of an uncertificated security by or to a fiduciary, including a person who guarantees the signature of the fiduciary, is liable for participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves such a breach unless it is shown that he or she acted with knowledge that the proceeds were being used or that the transaction was wrongfully for the individual benefit of the fiduciary or otherwise in breach of duty.

(b) If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom

the corporation or transfer agent by reason of subdivision (1) of Section 8404 incurs no liability.

(c) This subdivision does not impose any liability upon the corporation or its transfer agent.

8404. (1) Except as provided in any law relating to the collection of taxes, the issuer is not liable to the owner, pledgee, or any other person suffering loss as a result of the registration of a transfer, pledge, or release of a security if both:

(a) There were on or with a certificated security the necessary indorsements or the issuer had received an instruction originated by an appropriate person (Section 8308).

(b) The issuer had no duty as to adverse claims or has discharged the duty (Section 8403).

(2) If an issuer has registered a transfer of a certificated security to a person not entitled to it, the issuer on demand shall deliver a like security to the true owner unless any of the following apply:

(a) The registration was pursuant to subdivision (1).

(b) The owner is precluded from asserting any claim for registering the transfer under subdivision (1) of Section 8405.

(c) The delivery would result in overissue, in which case the issuer's liability is governed by Section 8104.

(3) If an issuer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless either:

(a) The registration was pursuant to subdivision (1).

(b) The registration would result in overissue, in which case the issuer's liability is governed by Section 8104.

8405. (1) If a certificated security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after he or she has notice of it and the issuer registers a transfer of the security before receiving notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under Section 8404 or any claim to a new security under this section.

(2) If the owner of a certificated security claims that the security has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificated security or, at the option of the issuer, an equivalent uncertificated security in place of the original security if the owner does all of the following:

(a) So requests before the issuer has notice that the security has been acquired by a bona fide purchaser.

(b) Files with the issuer a sufficient indemnity bond.

(c) Satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new certificated or uncertificated security, a bona fide purchaser of the original certificated security presents it for registration of transfer, the issuer shall register the

transfer unless registration would result in overissue, in which event the issuer's liability is governed by Section 8104. In addition to any rights on the indemnity bond, the issuer may recover the new certificated security from the person to whom it was issued or any person taking under him or her except a bona fide purchaser or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.

8406. (1) If a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its certificated securities or in the registration of transfers, pledges, and releases of its uncertificated securities, in the issue of new securities, or in the cancellation of surrendered securities, then both of the following are applicable:

(a) He or she is under a duty to the issuer to exercise good faith and due diligence in performing his or her functions.

(b) With regard to the particular functions he or she performs, he or she has the same obligation to the holder or owner of a certificated security or to the owner or pledgee of an uncertificated security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar, or other agent is notice to the issuer with respect to the functions performed by the agent.

8407. (1) No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

(2) Upon surrender of a certificated security with all necessary indorsements and presentation of a written request by the person surrendering the security, the issuer, if he or she has no duty as to adverse claims or has discharged the duty (Section 8403), shall issue to the person or a person designated by him or her an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

(3) Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which must be noted conspicuously any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to either of the following:

(a) The registered owner, if the uncertificated security was not subject to a registered pledge.

(b) The registered pledgee, if the uncertificated security was subject to a registered pledge.

8408. (1) Within two business days after the transfer of an uncer-

tificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing all of the following:

(a) A description of the issue of which the uncertificated security is a part.

(b) The number of shares or units transferred.

(c) The name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee.

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims.

(e) The date the transfer was registered.

(f) Anything else required by subdivision (b) of Section 416 of the Corporations Code.

(2) Within two business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing all of the following:

(a) A description of the issue of which the uncertificated security is a part.

(b) The number of shares or units pledged.

(c) The name and address and any taxpayer identification number of the registered owner and the registered pledgee.

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims.

(e) The date the pledge was registered.

(f) Anything else required by subdivision (b) of Section 416 of the Corporations Code.

(3) Within two business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing all of the following:

(a) A description of the issue of which the uncertificated security is a part.

(b) The number of shares or units released from pledge.

(c) The name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released.

(d) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security is or may be

subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims.

(e) The date the release was registered.

(f) Anything else required by subdivision (b) of Section 416 of the Corporations Code.

(4) An "initial transaction statement" is the statement sent to any of the following:

(a) The new registered owner and, if applicable, to the registered pledgee pursuant to subdivision (1).

(b) The registered pledgee pursuant to subdivision (2).

(c) The registered owner pursuant to subdivision (3).

Each initial transaction statement shall be signed by or on behalf of the issuer and must be identified as "Initial Transaction Statement."

(5) Within two business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing all of the following:

(a) A description of the issue of which the uncertificated security is a part.

(b) The number of shares or units transferred.

(c) The name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee.

(d) The date the transfer was registered.

(6) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing all of the following:

(a) A description of the issue of which the uncertificated security is a part.

(b) The name and address and any taxpayer identification number of the registered owner.

(c) The number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement.

(d) The name and address and any taxpayer identification number of any registered pledgee and the number of shares or units subject to the pledge.

(e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(f) Anything else required by subdivision (b) of Section 416 of the Corporations Code.

(7) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated

security a dated written statement containing all of the following:

(a) A description of the issue of which the uncertificated security is a part.

(b) The name and address and any taxpayer identification number of the registered owner.

(c) The name and address and any taxpayer identification number of the registered pledgee.

(d) The number of shares or units subject to the pledge.

(e) A notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subdivision (7) of Section 8403) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(f) Anything else required by subdivision (b) of Section 416 of the Corporations Code.

(8) If the issuer sends the statements described in subdivisions (6) and (7) at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable costs of furnishing them.

(9) Each statement sent pursuant to this section must bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security."

(10) A permanent record of the most recent initial transaction statement issued pursuant to this section for every uncertificated security shall be maintained by the issuer.

SEC. 7. Section 9103 of the Commercial Code is amended to read:

9103. (1) (a) This subdivision applies to documents and instruments and to goods other than those covered by a certificate of title described in subdivision (2), mobile goods described in subdivision (3), and minerals described in subdivision (5).

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdic-

tion from which the collateral was removed, the security interest remains perfected, but if action is required by Chapter 3 (commencing with Section 9301) to perfect the security interest:

(i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal.

(ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter.

(iii) For the purpose of priority over a buyer of consumer goods (subdivision (2) of Section 9307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(e) If goods are or become fixtures (Section 9313(1)(a)) in relation to real estate located in this state, the conflicting interest of an encumbrancer or owner of the real estate is governed by Section 9313.

(2) (a) This subdivision applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection whether such certificate is designated a "certificate of title," "certificate of ownership," or otherwise.

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subdivision (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to a security interest not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the

business of selling goods of that kind to the extent that he or she gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) (a) This subdivision applies to accounts (other than an account described in subdivision (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, roadbuilding and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subdivision (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at the debtor's place of business if he or she has one, at the debtor's chief executive office if he or she has more than one place of business, or otherwise at the debtor's residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) The rules stated for goods in subdivision (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subdivision (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) The law of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or nonperfection of a security interest in uncertificated securities.

SEC. 8. Section 9105 of the Commercial Code is amended to read:

9105. (1) In this division unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible.

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper.

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold.

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he or she owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, "debtor" means the owner of the collateral in any provision of the division dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires.

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

(f) "Document" means document of title as defined in the general definitions of Division 1 (Section 1201), and a receipt of the kind described in subdivision (2) of Section 7201.

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops.

(i) "Instrument" means a negotiable instrument (defined in Sec-

tion 3104), or a certificated security (defined in Section 8102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment.

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like.

(k) An advance is made "pursuant to commitment" if the secured party has bound himself or herself to make it, whether or not a subsequent event of default or other event not within his or her control has relieved or may relieve him or her from his or her obligation.

(*l*) "Security agreement" means an agreement which creates or provides for a security interest.

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(o) "New value" includes new advances or loans made, or new obligations incurred, or the release of a valid and existing security interest, or the release of a claim to proceeds; but "new value" shall not be construed to include extension or renewals of existing obligations of the debtor, nor obligations substituted for such existing obligations.

(2) Other definitions applying to this division and the sections in which they appear are:

"Account." Section 9106.

"Attach." Section 9203.

"Consumer goods." Section 9109(1).

"Construction mortgage." Section 9313(1).

"Equipment." Section 9109(2).

"Farm products." Section 9109(3).

"Fixture." Section 9313(1).

"Fixture filing." Section 9313(1).

"General intangibles." Section 9106.

"Inventory." Section 9109(4).

"Lien creditor." Section 9301(3).

"Proceeds." Section 9306(1).

"Purchase money security interest." Section 9107.

"United States." Section 9103.

(3) The following definitions in other divisions apply to this divi-

sion:

"Check." Section 3104.

"Contract for sale." Section 2106.

"Holder in due course." Section 3302.

"Note." Section 3104.

"Sale." Section 2106.

(4) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 9. Section 9203 of the Commercial Code is amended to read:

9203. (1) Subject to the provisions of Section 4208 on the security interest of a collecting bank, Section 8321 on security interests in securities, and Section 9113 on a security interest arising under the division on sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless all of the following are applicable:

(a) The collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned.

(b) Value has been given.

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subdivision (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed, a security agreement gives the secured party the rights to proceeds provided by Section 9306.

(4) A transaction, although subject to this division, is also subject to the Retail Installment Sales Act, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code; the Automobile Sales Finance Act, Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code; the Industrial Loan Law, Division 7 (commencing with Section 18000) of the Financial Code; the Pawnbroker Law, Division 8 (commencing with Section 21000) of the Financial Code; the Personal Property Brokers Law, Division 9 (commencing with Section 22000) of the Financial Code; the Consumer Finance Lenders Law, Division 10 (commencing with Section 24000) of the Financial Code; the Commercial Finance Lenders Law, Division 11 (commencing with Section 26000) of the Financial Code; and the Mobilehomes-Manufactured Housing Act of 1980, Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and in the case of conflict between the provisions of this division and that statute, the provisions of that statute control. Failure to comply with any applicable statute has only the effect which is specified in that statute.

SEC. 10. Section 9302 of the Commercial Code is amended to

read:

9302. (1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under Section 9305.

(b) A security interest temporarily perfected in instruments or documents without delivery under Section 9304 or in proceeds for a 10-day period under Section 9306.

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate.

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle or boat required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in Section 9313.

(e) A security interest of a collecting bank (Section 4208) or in securities (Section 8321) or arising under the division on sales (see Section 9113) or covered in subdivision (3) of this section.

(f) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(g) A security interest in a deposit account. Such a security interest is perfected:

(i) As to a deposit account maintained with the secured party, when the security agreement is executed.

(ii) As to a deposit account not described in subparagraph (i), when notice thereof is given in writing to the organization with whom the deposit account is maintained.

(h) A security interest in or claim in or under any policy of insurance including unearned premiums. Such interest shall be perfected when notice thereof is given in writing to the insurer.

(2) If a secured party assigns a perfected security interest, no filing under this division is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this division is not necessary or effective to perfect a security interest in property subject to any of the following:

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this division for filing of the security interest.

(b) The provisions of the Vehicle Code which require registration of a vehicle or boat, or provisions of the Health and Safety Code which require registration of a mobilehome or commercial coach; but during any period in which collateral is inventory, the filing provisions of this division (Chapter 4 (commencing with Section 9401)) apply to a security interest in that collateral.

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subdivision (2) of Section

9103).

(d) The provisions of the Health and Safety Code which require registration of all interests in approved air contaminant emission reductions (Sections 40709 to 40713, inclusive, of the Health and Safety Code).

(4) Compliance with a statute or treaty described in subdivision (3) is equivalent to the filing of a financing statement under this division and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in Section 9103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this division.

SEC. 11. Section 9304 of the Commercial Code is amended to read:

9304. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subdivisions (4), (5), and (7) of this section and subdivisions (2) and (3) of Section 9306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during the period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument (other than a certificated security), a negotiable document, or goods in possession of a bailee other than one who has issued a negotiable document therefor does either of the following:

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between con-

flicting security interests in the goods is subject to subdivision (3) of Section 9312.

(b) Delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21-day period in subdivisions (4) and (5), perfection depends upon compliance with applicable provisions of this division.

(7) If an instrument claimed as proceeds (other than cash proceeds) under Section 9306 is in the custody of a levying officer, a secured party may perfect a security interest in such instrument by filing a third-party claim with the levying officer pursuant to Chapter 3 (commencing with Section 720.210) of Division 4 of Title 9 of Part 2 of the Code of Civil Procedure within the 10-day period allowed under Section 9306.

SEC. 12. Section 9305 of the Commercial Code is amended to read:

9305. A security interest in letters of credit and advices of credit (paragraph (a) of subdivision (2) of Section 5116), goods, instruments (other than certificated securities), money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this division. The security interest may be otherwise perfected as provided in this division before or after the period of possession by the secured party.

SEC. 13. Section 9306 of the Commercial Code is amended to read:

9306. (1) "Proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "noncash proceeds."

(2) Except where this division or subdivision (4) of Section 8321 otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected 10 days after receipt of the proceeds by the debtor unless any of the following apply:

(a) A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds.

(b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds.

(c) The security interest in the proceeds is perfected before the expiration of the 10-day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in this division or Division 8 (commencing with Section 8101) for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in all of the following proceeds:

(a) In identifiable noncash proceeds and in a separate deposit account containing only proceeds.

(b) In identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings.

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings.

(d) In all cash and deposit accounts of the debtor in which proceeds have been commingled with other funds, but the perfected security interest under this paragraph (d) is both:

(i) Subject to any right of setoff.

(ii) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within 10 days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a), (b), and (c).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under Section 9308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods.

(6) Cash proceeds retain their character as cash proceeds while in the possession of a levying officer pursuant to Title 6.5 (commencing with Section 481.010) or Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

SEC. 14. Section 9309 of the Commercial Code is amended to read:

9309. Nothing in this division limits the rights of a holder in due course of a negotiable instrument (Section 3302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7501) or a bona fide purchaser of a security (Section 8302) and the holders or purchasers take priority over an earlier security interest even though perfected. Filing under this division does not constitute notice of the security interest to the holders or purchasers.

SEC. 15. Section 9312 of the Commercial Code is amended to read:

9312. (1) The rules of priority stated in other sections of this chapter and in the following sections shall govern where applicable: Section 4208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9103 on security interests related to other jurisdictions; Section 9114 on consignments.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if all of the following occur:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory.

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession (subdivision (5) of Section 9304).

(c) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory.

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 10 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subdivisions (3) and (4)), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subdivision (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under Section 8321 on securities, the security interest has the same priority for the purposes of subdivision (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

SEC. 16. Division 12 (commencing with Section 12101) is added to the Commercial Code, to read:

DIVISION 12. EFFECTIVE DATE AND TRANSITION PROVISIONS

12101. The repeal and addition of Division 8 (commencing with Section 8101) made at the 1984 portion of the 1983–84 Regular Session shall become effective on January 1, 1985.

12102. The provisions of Division 10 (commencing with Section 10101) and Division 11 (commencing with Section 11101) shall continue to apply to this code, as revised by the Legislature at the 1983–84 Regular Session, and for this purpose, this code as it existed prior to January 1, 1985, and this code, as revised by the Legislature at the 1984 portion of the 1983–84 Regular Session, shall be considered one continuous statute.

12103. The owner of an interest (other than a security interest) in an uncertificated security (paragraph (b) of subdivision (1) of

Section 8102) whose interest was acquired prior to January 1, 1985, or was acquired after January 1, 1985, in an uncertificated security issued in respect of a security in which the owner had such an interest, shall not be required to take any action under Section 8313 or otherwise to preserve or protect that ownership interest, which shall remain effective and enforceable to the same extent it was prior to January 1, 1985, in the absence of that action. However, if a security interest first attaches to the security or any other interest in the security first becomes effective after that date, the provisions of Division 8 (commencing with Section 8101) as revised shall govern the rights and obligations of all persons with respect to those interests. Except as otherwise provided in this division, the rights and obligations of all persons with respect to uncertificated securities issued prior to January 1, 1985, shall be governed by Division 8 (commencing with Section 8101) as revised by the Legislature in the 1984 portion of the 1983–84 Regular Session.

12104. A secured party who has a security interest in an uncertificated security (paragraph (b) of subdivision (1) of Section 8102), which security interest attached to that uncertificated security (a) prior to January 1, 1985, or (b) after that date in an uncertificated security issued in respect of a security in which the secured party had the pre-January 1, 1985, security interest, shall not be required to take any action under Division 8 (commencing with Section 8101) to protect, preserve, or perfect that security interest, which shall remain attached and perfected to the same extent it was prior to that date in the absence of any such action. The priority and perfection of those security interests shall continue to be governed by Division 9 (commencing with Section 9101) as it existed prior to that date. However, on or before the last date on which any action is required under Division 9 (commencing with Section 9101) (as it existed prior to that date) to continue the perfection of the security interest, in order to continue the perfection of the security interest the secured party, rather than complying with Division 9 (commencing with Section 9101), shall furnish to a party described in subparagraph (i), (iii), or (iv) of paragraph (h) of subdivision (1) of Section 8313, or if none of those is applicable, then to the issuer of the uncertificated security, either (x) a copy of either the financing statement previously filed to perfect the security interest or the security agreement that created the security interest, in either case bearing a copy or an original of the debtor's signature, or (y) a written notification from the registered owner under paragraph (b) of subdivision (7) of Section 8403. Any such notice to an issuer shall be deemed a written notification under paragraph (b) of subdivision (7) of Section 8403, subject to the limitation that there can be no more than one registered pledge of an uncertificated security at any time (Section 8108). Except as otherwise provided in this division, the provisions of Division 8 (commencing with Section 8101) as revised shall govern the rights and obligations of all persons with respect to a security interest in an uncertificated security that first attaches after January 1, 1985.

SEC. 17. Section 416 of the Corporations Code is amended to read:

416. (a) Every holder of shares in a corporation shall be entitled to have a certificate signed in the name of the corporation by the chairman or vice chairman of the board or the president or a vice president and by the chief financial officer or an assistant treasurer or the secretary or any assistant secretary, certifying the number of shares and the class or series of shares owned by the shareholder. Any or all of the signatures on the certificate may be facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were an officer, transfer agent or registrar at the date of issue.

(b) Notwithstanding subdivision (a), a corporation may adopt a system of issuance, recordation and transfer of its shares by electronic or other means not involving any issuance of certificates, including provisions for notice to purchasers in substitution for the required statements on certificates under Sections 417, 418, and 1302, and as may be required by the commissioner in administering the Corporate Securities Law of 1968, which system (1) has been approved by the United States Securities and Exchange Commission, (2) is authorized in any statute of the United States, or (3) is in accordance with Division 8 (commencing with Section 8101) of the Commercial Code.

SEC. 18. Section 418 of the Corporations Code is amended to read:

418. (a) There shall also appear on the certificate (unless stated or summarized under subdivision (a) or (b) of Section 417) the statements required by all of the following clauses to the extent applicable:

(1) The fact that the shares are subject to restrictions upon transfer.

(2) If the shares are assessable or are not fully paid, a statement that they are assessable or the statements required by subdivision (d) of Section 409 if they are not fully paid.

(3) The fact that the shares are subject to a voting agreement under subdivision (a) of Section 706 or an irrevocable proxy under subdivision (e) of Section 705 or restrictions upon voting rights contractually imposed by the corporation.

(4) The fact that the shares are redeemable.

(5) The fact that the shares are convertible and the period for conversion.

Any such statement or reference thereto (Section 174) on the face of the certificate required by paragraph (1) or (2) shall be conspicuous.

(b) Unless stated on the certificate as required by subdivision (a), no restriction upon transfer, no right of redemption and no voting agreement under subdivision (a) of Section 706, no irrevocable proxy

under subdivision (e) of Section 705, and no voting restriction imposed by the corporation shall be enforceable against a transferee of the shares without actual knowledge of such restriction, right, agreement or proxy. With regard only to liability to assessment or for the unpaid portion of the subscription price, unless stated on the certificate as required by subdivision (a), that liability shall not be enforceable against a transferee of the shares. For the purpose of this subdivision, "transferee" includes a purchaser from the corporation.

(c) All certificates representing shares of a close corporation shall contain in addition to any other statements required by this section, the following conspicuous legend on the face thereof: "This corporation is a close corporation. The number of holders of record of its shares of all classes cannot exceed _____ [a number not in excess of 35]. Any attempted voluntary inter vivos transfer which would violate this requirement is void. Refer to the articles, bylaws and any agreements on file with the secretary of the corporation for further restrictions."

(d) Any attempted voluntary inter vivos transfer of the shares of a close corporation which would result in the number of holders of record of its shares exceeding the maximum number specified in its articles is void if the certificate contains the legend required by subdivision (c).

CHAPTER 928

An act to add Section 53109.5 to the Government Code, and to amend Section 21083.5 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 53109.5 is added to the Government Code, to read:

53109.5. The Legislature finds and declares that environmental considerations in the Tahoe region have halted or delayed the development of facilities necessary for the establishment of a local emergency telephone system in that area.

Accordingly, local public agencies in the Tahoe region, as defined in subdivision (a) of Article II of Section 66801 of the Government Code, shall comply with Section 53109 by December 31, 1986, rather than by December 31, 1985.

SEC. 2. Section 21083.5 of the Public Resources Code is amended to read:

21083.5. The guidelines prepared and adopted pursuant to Section 21083 shall provide that, when an environmental impact

statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and implementing regulations, or an environmental impact report has been, or will be, prepared for the same project pursuant to the requirements of the Tahoe Regional Planning Compact (Section 66801 of the Government Code) and implementing regulations, all or any part of that statement or report may be submitted in lieu of all or any part of an environmental impact report required by this division, if that statement or report, or the part which is used, complies with the requirements of this division and the guidelines adopted pursuant thereto.

CHAPTER 929

An act to add Sections 53601.5 and 53635.5 to the Government Code, relating to funds of local agencies.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 53601.5 is added to the Government Code, to read:

53601.5. The purchase by a local agency of any investment authorized pursuant to Section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a federal or state savings institution, or from a brokerage firm designated as a primary government dealer by the Federal Reserve Bank.

SEC. 2. Section 53635.5 is added to the Government Code, to read:

53635.5. The purchase by a local agency of any investment authorized pursuant to Section 53635, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a federal or state savings institution, or from a brokerage firm designated as a primary government dealer by the Federal Reserve Bank.

CHAPTER 930

An act to amend Sections 6072, 6359, 6459, 6481, 6511, 6513, 6536, 6591, 6907, 6936, 7655, 7656, 7661, 7706, 8130, 8151, 8754, 8803, 8876, 9155, 9174, 12258, 12287, 12307, 12631, 12983, 13107, 30171, 30179, 30185, 30223, 30281, 30366, 30406, 32253, 32254, 32271, 32291, 32405, 32417, 40065, 40083, 40101, 40116, 40130, 41071, 41082, 41095, 41105, 41113, 43154, 43156, 43201, 43455, 43477, 44072, 44090, 44105, and 44125 of, to add Sections 6595, 8879, 12637, 30284, 32320, 40101.1, 41098, and 44092 to, and to add Article 5 (commencing with Section 7741) to Chapter 5 of Part 2 of, and Article 6 (commencing with Section 43361) to Chapter 3 of Part 22 of, Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 6072 of the Revenue and Taxation Code is amended to read:

6072. A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his permit to the board for cancellation. The board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.

Any person who knowingly issues a resale certificate while the person is not actively engaged in business as a seller, for personal gain or to evade the payment of taxes, shall be liable for the taxes that would otherwise have been due on the transaction, plus a penalty of 10 percent which is in addition to all other penalties imposed by this part, and interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 1.5. Section 6072 of the Revenue and Taxation Code is amended to read:

6072. A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his permit to the board for cancellation. The board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.

Any person who knowingly issues a resale certificate while the person is not actively engaged in business as a seller, for personal gain or to evade the payment of taxes, shall be liable for the taxes that would otherwise have been due on the transaction, plus a penalty of 10 percent or five hundred dollars ($500), whichever is greater, in

addition to all other penalties imposed by this part, and interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 1.6. Section 6359 of the Revenue and Taxation Code is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

(b) For the purposes of this section, "food products" include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and nonmedicated chewing gum.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, except bottled water, spirituous, malt or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(d) None of the exemptions provided for in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following

apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraphs (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) shall not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold.

SEC. 2. Section 6459 of the Revenue and Taxation Code is amended to read:

6459. The board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax or other amount, interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date on which the tax or other amount would have been due without the extension until the date of payment.

SEC. 3. Section 6481 of the Revenue and Taxation Code is amended to read:

6481. If the board is not satisfied with the return or returns of the tax or the amount of tax, or other amount, required to be paid to the state by any person, it may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one or for more than one period. When a business is discontinued a determination may be made at any time thereafter, within the periods specified in Section 6487, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

SEC. 4. Section 6511 of the Revenue and Taxation Code is amended to read:

6511. If any person fails to make a return, the board shall make

an estimate of the amount of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use, or other consumption of which in this state is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come in its possession. Upon the basis of this estimate the board shall compute and determine the amount of tax or other amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period. When a business is discontinued a determination may be made at any time thereafter, within the periods specified in Section 6487, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

SEC. 5. Section 6513 of the Revenue and Taxation Code is amended to read:

6513. The amount of the determination, including penalties, shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 6. Section 6536 of the Revenue and Taxation Code is amended to read:

6536. If the board believes that the collection of any tax or any amount of tax required to be collected and paid to the state or of any determination or other amount required to be paid to the state will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected or other amount, noting that fact upon the determination. The amount determined is immediately due and payable.

SEC. 7. Section 6591 of the Revenue and Taxation Code is amended to read:

6591. Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state or other amount required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of the tax or other amount, in addition to the tax or amount of tax or other amount, plus interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date on which the tax or the amount of tax required to be collected or other amount became due and payable to the state until the date of payment.

SEC. 8. Section 6595 is added to the Revenue and Taxation Code, to read:

6595. (a) The amount of penalty imposed by Section 6072, 6484, or 6485 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 6476, 6477, 6478, 6511, or 6514 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 6537 or 6565 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 6591 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 9. Section 6907 of the Revenue and Taxation Code is amended to read:

6907. Interest shall be paid upon any overpayment of any amount of tax or other amount, at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 10. Section 6936 of the Revenue and Taxation Code is amended to read:

6936. In any judgment, interest shall be allowed at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 11. Section 7655 of the Revenue and Taxation Code is amended to read:

7655. Any distributor who fails to pay the amount of license tax shown to be due by his or her return on or before the 25th day of the calendar month following the monthly period to which it relates shall

pay a penalty of 10 percent of the license tax, together with interest on that license tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the license tax became due and payable to the state until the date of payment.

SEC. 12. Section 7656 of the Revenue and Taxation Code is amended to read:

7656. The board for good cause may extend for not to exceed one month the time for making any report or return or paying any tax required under this part. The extension may be granted at any time, provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any distributor to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the tax would have been due without the extension to the date of payment.

SEC. 13. Section 7661 of the Revenue and Taxation Code is amended to read:

7661. All determinations so made, including penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 25th day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 14. Section 7706 of the Revenue and Taxation Code is amended to read:

7706. All jeopardy determinations including those made under Section 7704, including penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 25th day of the calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 15. Article 5 (commencing with Section 7741) is added to Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code, to read:

Article 5. Interest on Penalties

7741. (a) The amount of penalty imposed by Section 7672, 7673, or 7727 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 7659.5, 7659.6, 7659.7, 7660, 7662, or 7705 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 7699 or 7713 shall

bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 7655 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 16. Section 8130 of the Revenue and Taxation Code is amended to read:

8130. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 25th day of the calendar month following the monthly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 17. Section 8151 of the Revenue and Taxation Code is amended to read:

8151. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount of the license tax found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 18. Section 8754 of the Revenue and Taxation Code is amended to read:

8754. The board for good cause may extend for not to exceed one month the time for making any return or paying any tax required under this part. The extension may be granted at any time; provided, a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any user to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the tax would have been due without the extension to the date of payment.

SEC. 19. Section 8803 of the Revenue and Taxation Code is amended to read:

8803. The amount of the determination, including penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 25th day of the month

following the month for which the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 20. Section 8876 of the Revenue and Taxation Code is amended to read:

8876. Any user who fails to pay any tax, except taxes determined by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801), within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the tax became due and payable until the date of payment.

SEC. 21. Section 8879 is added to the Revenue and Taxation Code, to read:

8879. (a) The amount of penalty imposed by Section 8779 or 8780 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 8756.5, 8756.6, 8756.7, 8801, or 8804 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 8827 or 8854 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 8876 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

(e) The amount of penalty imposed by Section 8701 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of assessment to the date of payment.

SEC. 22. Section 9155 of the Revenue and Taxation Code is amended to read:

9155. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 25th day of the calendar month following the period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which

interest is computed on the tax or amount against which the credit is applied.

SEC. 23. Section 9174 of the Revenue and Taxation Code is amended to read:

9174. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part and Part 2 (commencing with Section 7301), and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 24. Section 12258 of the Revenue and Taxation Code is amended to read:

12258. Any insurer who fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

SEC. 25. Section 12287 of the Revenue and Taxation Code is amended to read:

12287. The retaliatory tax shall be due and payable on or before December 1st and shall be paid by remittance made payable to the Controller. If not paid on or before the due date, the amount of retaliatory tax shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from December 1st until the date of payment, and there shall be paid in addition to the tax and interest, a penalty of 10 percent of the amount of the retaliatory tax.

SEC. 26. Section 12307 of the Revenue and Taxation Code is amended to read:

12307. Any insurer to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from April 1st until the date of payment.

SEC. 27. Section 12631 of the Revenue and Taxation Code is amended to read:

12631. Any insurer who fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the due date of the tax until the date of payment.

SEC. 28. Section 12637 is added to the Revenue and Taxation Code, to read:

12637. (a) The amount of penalty imposed by Section 12634 or 12635 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 12287, 12631, or 12633 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 12632 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 12258 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the prepayment is required to be made to the date of payment.

(e) The amount of penalty imposed by Section 12282 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return for the first one hundred dollars ($100), and from the 15th day thereafter for each additional one hundred dollars ($100) imposed, to the date the return is filed.

SEC. 29. Section 12983 of the Revenue and Taxation Code is amended to read:

12983. Interest shall be allowed upon the amount of any overpayment of tax pursuant to this part at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the due date of the tax for the year for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 30. Section 13107 of the Revenue and Taxation Code is amended to read:

13107. In any judgment, interest shall be allowed, subject to the same limitations as are prescribed by Section 12984, at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined

by the Controller.

SEC. 31. Section 30171 of the Revenue and Taxation Code is amended to read:

30171. Any distributor who fails to pay any amount owing for the purchase of stamps or meter register settings within the time required, shall pay a penalty of 10 percent of the amount due in addition to the amount plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the amount became due and payable until the date of payment.

SEC. 32. Section 30179 of the Revenue and Taxation Code is amended to read:

30179. Interest shall be computed, allowed and paid upon any overpayment for the purchase of stamps or meter register settings at the adjusted annual rate established pursuant to Section 19269, compounded daily from the due date for payment of the purchase for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 33. Section 30185 of the Revenue and Taxation Code is amended to read:

30185. Except as otherwise provided in Section 30172, the board for good cause may extend for not to exceed one month the time for making any report or paying any amount of tax required under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted pursuant to this section shall pay, in addition to the amount of tax, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the amount of tax would have been due without the extension to the date of payment.

SEC. 34. Section 30223 of the Revenue and Taxation Code is amended to read:

30223. The amount of the determination, including penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 35. Section 30281 of the Revenue and Taxation Code is amended to read:

30281. Any person who fails to pay any tax, except a tax determined by the board under Article 2 (commencing with Section 30201) or Article 3 (commencing with Section 30221), within the time required, shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the tax became due and payable until the date of payment.

SEC. 36. Section 30284 is added to the Revenue and Taxation Code, to read:

30284. (a) The amount of penalty imposed by Section 30204 or 30205 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 30221 or 30224 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 30242 or 30264 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 30281 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the payment is due to the date of payment.

(e) The amount of penalty imposed by Section 30171 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the amount of deferred payment purchases to the date of payment.

SEC. 37. Section 30366 of the Revenue and Taxation Code is amended to read:

30366. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily from the 25th day of the calendar month following the monthly period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 38. Section 30406 of the Revenue and Taxation Code is

amended to read:

30406. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 39. Section 32253 of the Revenue and Taxation Code is amended to read:

32253. The board for good cause may extend for not to exceed one month the time for making any report or paying any tax. Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date the tax would have been due without the extension to the date of payment.

SEC. 40. Section 32254 of the Revenue and Taxation Code is amended to read:

32254. All taxes not paid on the date when due and payable shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from and after that date until paid.

SEC. 41. Section 32271 of the Revenue and Taxation Code is amended to read:

32271. If the board is dissatisfied with the return or returns filed or amount of tax paid to the state by any taxpayer, it may compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 15th day after the close of the period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment. In making a determination, the board may offset overpayment for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized rules, a penalty of 10 percent of the amount of the determination shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized rules, a penalty of 25 percent of the amount of the determination shall be added, plus interest as above provided. The board shall give to the taxpayer written notice of its

determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 42. Section 32291 of the Revenue and Taxation Code is amended to read:

32291. If any taxpayer fails to make a return required by this part, the board shall make an estimate, based upon any information available to it, for the period or periods with respect to which the taxpayer failed to make a return of all alcoholic beverages sold in this state by him. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus fixed a penalty equal to 5 percent thereof. One or more determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 15th day of the calendar month following the close of the period for which the amount of the tax, or any portion thereof, should have been returned until the date of payment. In making a determination the board may offset overpayments for a period or periods against underpayments for another period or periods and against interest and penalties on the underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of this part or authorized rules, an additional penalty of 10 percent of the amount of the determination shall be added. If the neglect or refusal of a taxpayer to file a return as required by this part was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 percent thereof in addition to the 5 percent penalty. The board shall give to the taxpayer written notice of the estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by Section 32271.

SEC. 43. Section 32320 is added to the Revenue and Taxation Code, to read:

32320. (a) The amount of penalty imposed by Section 32271 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 32291 or 32292

shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 32305 or 32311 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 32252 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 44. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 15th day of the calendar month following the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 45. Section 32417 of the Revenue and Taxation Code is amended to read:

32417. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 46. Section 40065 of the Revenue and Taxation Code is amended to read:

40065. The board for good cause may extend not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the surcharge, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the surcharge would have been due without the extension to

the date of payment.

SEC. 47. Section 40083 of the Revenue and Taxation Code is amended to read:

40083. The amount of the determination, including penalties, shall bear interest from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment. Interest shall be computed at the adjusted annual rate established pursuant to Section 19269, compounded daily.

SEC. 48. Section 40101 of the Revenue and Taxation Code is amended to read:

40101. Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or Article 4 (commencing with Section 40081), within the time required, shall pay a penalty of 10 percent of the surcharge or amount of the surcharge, in addition to the surcharge or amount of surcharge, plus interest from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment. Interest shall be computed at the adjusted annual rate established pursuant to Section 19269, compounded daily.

SEC. 49. Section 40101.1 is added to the Revenue and Taxation Code, to read:

40101.1. (a) The amount of penalty imposed by Section 40074 or 40075 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 40081 or 40084 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 40096 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 40101 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 50. Section 40116 of the Revenue and Taxation Code is amended to read:

40116. Interest shall be paid upon any overpayment of any amount of surcharge from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

(c) Interest shall be computed at the adjusted annual rate established pursuant to Section 19269, compounded daily.

SEC. 51. Section 40130 of the Revenue and Taxation Code is amended to read:

40130. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 52. Section 41071 of the Revenue and Taxation Code is amended to read:

41071. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 60th day following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 53. Section 41082 of the Revenue and Taxation Code is amended to read:

41082. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the 60th day following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 54. Section 41095 of the Revenue and Taxation Code is amended to read:

41095. Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), of this chapter, within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge or ten dollars ($10), whichever is greater, in addition to the tax or amount of surcharge, plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the surcharge or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 55. Section 41098 is added to the Revenue and Taxation

Code, to read:

41098. (a) The amount of penalty imposed by Section 41073 or 41074 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 41080 or 41083 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 41090 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 41095 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 56. Section 41105 of the Revenue and Taxation Code is amended to read:

41105. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date the return is due following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 57. Section 41113 of the Revenue and Taxation Code is amended to read:

41113. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 58. Section 43154 of the Revenue and Taxation Code is amended to read:

43154. The board for good cause may extend, for a period of time not to exceed one month, the time for making any return or paying any amount required to be paid under this part. The extension may

be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the tax would have been due without the extension until the date of payment.

SEC. 59. Section 43156 of the Revenue and Taxation Code is amended to read:

43156. All taxes not paid on the date when due and payable shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from and after that date until paid.

SEC. 60. Section 43201 of the Revenue and Taxation Code is amended to read:

43201. (a) If the board is dissatisfied with the return or report filed or the amount of tax paid to the state by any taxpayer, or if no return or report has been filed or no payment or payments of the taxes have been made to the state by a taxpayer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one, or for more than one, period. The amount of tax so determined shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date the amount of the tax, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized regulations, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided above.

(c) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (a).

(d) The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, subpost office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at

the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 61. Article 6 (commencing with Section 43361) is added to Chapter 3 of Part 22 of Division 2 of the Revenue and Taxation Code, to read:

Article 6. Interest on Penalties

43361. (a) The amount of penalty imposed by Section 43201 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 43306 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(c) The amount of penalty imposed by Section 43155 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 62. Section 43455 of the Revenue and Taxation Code is amended to read:

43455. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the due date of the return for the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 63. Section 43477 of the Revenue and Taxation Code is amended to read:

43477. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 64. Section 44072 of the Revenue and Taxation Code is

amended to read:

44072. The amount of the determination, including penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the day specified pursuant to Section 44051 for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 65. Section 44090 of the Revenue and Taxation Code is amended to read:

44090. Any person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 44070) or Article 4 (commencing with Section 44080), within the time required, shall pay a penalty of 10 percent of the amount of the tax due in addition to the tax due plus interest at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 66. Section 44092 is added to the Revenue and Taxation Code, to read:

44092. (a) The amount of penalty imposed by Section 44063 or 44064 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date of the notice of determination to the date of payment.

(b) The amount of penalty imposed by Section 44070 or 44073 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the due date of the return to the date of payment.

(c) The amount of penalty imposed by Section 44085 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date the determination becomes final to the date of payment.

(d) The amount of penalty imposed by Section 44090 shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269, compounded daily, from the date payment is due to the date of payment.

SEC. 67. Section 44105 of the Revenue and Taxation Code is amended to read:

44105. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269, compounded daily, from the date the return is due following the quarterly period for which the overpayment was made. However, no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that

a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 68. Section 44125 of the Revenue and Taxation Code is amended to read:

44125. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269, compounded daily, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 69. Section 1.5 of this bill incorporates amendments to Section 6072 of the Revenue and Taxation Code proposed by both this bill and SB 1325. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 6072 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1325, in which case Section 6072 of the Revenue and Taxation Code, as amended by SB 1325, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 931

An act to amend Sections 82030, 82033, 82034, 87103, 87201, 87206, 87207, and 87313 of, and to add Section 87103.5 to, the Government Code, relating to the Political Reform Act.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 82030 of the Government Code is amended to read:

82030. (a) "Income" means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the

individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) "Income" also does not include:

(1) Campaign contributions required to be reported under Chapter 4 of this title.

(2) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization.

(3) Any devise or inheritance.

(4) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status if:

(A) Used to purchase, refinance the purchase of, or for improvements to, the principal residence of filer; or

(B) The balance owed does not exceed ten thousand dollars ($10,000).

(9) Any loan from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan from any such person shall be considered income if the lender is acting as an agent or intermediary for any person not covered by this paragraph.

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed ten thousand dollars ($10,000).

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

SEC. 2. Section 82033 of the Government Code is amended to read:

82033. "Interest in real property" includes any leasehold,

beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is one thousand dollars ($1,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater.

SEC. 3. Section 82034 of the Government Code is amended to read:

82034. "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value equals or exceeds one thousand dollars ($1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the commission.

SEC. 4. Section 87103 of the Government Code is amended to read:

87103. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars ($1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars ($1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status,

aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

SEC. 5. Section 87103.5 is added to the Government Code, to read:

87103.5. Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

SEC. 6. Section 87201 of the Government Code is amended to read:

87201. Every candidate for an office specified in Section 87200 other than a justice of an appellate or the Supreme Court shall file no later than the final filing date of a declaration of candidacy, a statement disclosing his or her investments and his or her interests in real property.

Such statement shall not be required if the candidate has filed, within 60 days prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

SEC. 7. Section 87206 of the Government Code is amended to read:

87206. When an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds one thousand dollars

($1,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand dollars ($10,000) but does not exceed one hundred thousand dollars ($100,000), or whether it exceeds one hundred thousand dollars ($100,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.

SEC. 8. Section 87207 of the Government Code is amended to read:

87207. (a) When income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and address of each source of income aggregating two hundred fifty dollars ($250) or more in value, or fifty dollars ($50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least two hundred fifty dollars ($250) but did not exceed one thousand dollars ($1,000), whether it was in excess of one thousand dollars ($1,000) but was not greater than ten thousand dollars ($10,000), or whether it was greater than ten thousand dollars ($10,000);

(3) A description of the consideration, if any, for which the income was received;

(4) In the case of a gift, the amount and the date on which the gift was received.

(5) In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(b) When the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity;

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

SEC. 9. Section 87313 of the Government Code is amended to read:

87313. No person shall make a gift of fifty dollars ($50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a

conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

SEC. 10. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 932

An act to amend Sections 6012.2 and 6276.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 6012.2 of the Revenue and Taxation Code is amended to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall be based on the current value of the used mobilehome as specified by a recognized value guide, whenever a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code, or whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development. If the value guide does not specify the age, model, and manufacturer of a used mobilehome or if the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" and "gross receipts" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

(c) This section shall remain in effect only until January 1, 1987,

and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 2. Section 6276.1 of the Revenue and Taxation Code is amended to read:

6276.1. (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Section 18014 of the Health and Safety Code shall be based on the current value of the used mobilehome as specified by a recognized value guide. If the value guide does not specify the age, model, and manufacturer of a used mobilehome or if the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.

(c) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 933

An act to amend Section 4003.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 4003.5 of the Vehicle Code is amended to read:

4003.5. Upon payment of the fee specified in Section 9258.5, the department shall issue a one-trip permit authorizing a new trailer or semitrailer which has never been registered in any state, to be moved or operated laden in this state for not more than five days as part of one continuous trip from the place of manufacture to a place where the vehicle will be offered for sale.

CHAPTER 934

An act to amend Section 33050 of the Education Code, relating to education.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 33050 of the Education Code is amended to read:

33050. (a) The governing board of a school district or a county board of education may, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code, except:

(1) The provisions of Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.

(2) The provisions of Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.

(3) The provisions of Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.

(4) The provisions of Part 13 (commencing with Section 22000).

(5) The following provisions of Part 23:

(A) Chapter 1 (commencing with Section 39000).

(B) Article 1 (commencing with Section 39100) to Article 6 (commencing with Section 39210), inclusive, of Chapter 2.

(C) Section 39248; Sections 39313 to 39325, inclusive; Section 39363; and Sections 39618 to 39621, inclusive.

(6) The provisions of Sections 52163, 52165, 52166, and 52178.

(7) The provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(8) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(9) The provisions specified pursuant to Section 52033.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to the provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to the provisions of Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title

1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, which is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

CHAPTER 935

An act to amend Sections 3520, 3610, 3611, 3612, 3613, and 5004 of, and to add Section 3616 to, the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

I am deleting the $25,000 General Fund appropriation contained in Section 9 of Assembly Bill No. 3178.

Funding to implement this bill should come from the Transportation Rate Fund. With this deletion, I approve Assembly Bill No. 3178.

George Deukmejian, Governor

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

SECTION 1. Section 3520 of the Public Utilities Code is amended to read:

3520. "Dump truck carrier" means any person or corporation, whether or not under contract or other arrangement with a shipper or another carrier, engaged in the transportation for compensation over any public highway in this state of mined, building, paving, or construction materials, including dirt and other excavated materials but excluding cement or liquids, in bulk in dump truck equipment.

SEC. 2. Section 3610 of the Public Utilities Code is amended to read:

3610. The transportation for compensation over any public highway in this state of mined, building, paving, or construction materials, including dirt and other excavated materials but excluding cement or liquids, in bulk in dump truck equipment is declared to be a highly specialized type of truck transportation. This article is enacted for the limited purpose of providing necessary regulations

for this specialized type of truck transportation only, and is not to be construed for any purpose as a precedent for the extension of this regulation to any other type of transportation.

SEC. 3. Section 3611 of the Public Utilities Code is amended to read:

3611. No dump truck carrier, whether or not under contract or other arrangement with a shipper or another carrier, shall engage in the business of the transportation for compensation over any public highway in this state of mined, building, paving, or construction materials, including dirt and other excavated materials but excluding cement or liquids, in bulk in dump truck equipment unless there is in force a permit issued by the commission authorizing the person or corporation to operate as a dump truck carrier.

SEC. 4. Section 3612 of the Public Utilities Code is amended to read:

3612. (a) Applications for permits to operate as a dump truck carrier shall be in writing, verified under oath, and shall be in the form, contain the information, and be accompanied by proof of service upon those interested parties that the commission requires.

(b) Any person or corporation engaged in business as a dump truck carrier on January 1, 1985, without a dump truck carrier permit in effect shall file with the commission prior to March 15, 1985, an application for a permit to operate as a dump truck carrier. However, in lieu of all other fees required by law, the applicant shall pay a fee of fifty dollars ($50). The commission shall issue a permit authorizing operation within the area requested in the application without further proceedings.

SEC. 5. Section 3613 of the Public Utilities Code is amended to read:

3613. (a) Except as provided in Section 3612, before a permit to operate as a dump truck carrier is issued, the commission shall require the applicant to establish all of the following:

(1) The applicant is a fit and proper person to receive a permit to operate as a dump truck carrier.

(2) The applicant has sufficient operating knowledge and financial ability to initiate and continue the proposed operation.

(3) The privilege sought:

(A) Will not endanger the safety of the public or interfere with the public use of the public highways.

(B) Will not unnecessarily burden the public highways.

(C) Is necessary to serve the public and to provide adequate service at the lowest possible reasonable rates.

(b) No permit shall be issued unless it has been shown that the applicant meets one of the following residence requirements:

(1) If an individual, the applicant has resided in the State of California for not less than 90 days immediately preceding the filing of the application.

(2) If a partnership, the partner having the largest percentage interest in the partnership has resided in the State of California

continuously for not less than 90 days immediately preceding the filing of the application.

(3) If a corporation, the applicant is a domestic corporation or has qualified to transact business in the State of California as a foreign corporation at the time of filing the application.

(c) (1) If the commission finds that the applicant has met all of the requirements specified in subdivisions (a) and (b), a permit shall be granted upon such limitations, terms, and conditions as the commission prescribes; otherwise the commission shall refuse to issue the permit requested.

(2) In determining whether or not a permit shall be granted, the commission shall accept all information relevant to any of those requirements, including, but not limited to, information offered by any shipper or receiver of the commodities proposed to be transported by the applicant and by previously permitted dump truck carriers authorized to offer a service competitive with that proposed by the applicant.

SEC. 6. Section 3616 is added to the Public Utilities Code, to read:

3616. The commission may issue or renew a temporary dump truck permit, upon the request of an applicant, in order to meet a temporary increase in the demand for dump truck transportation when existing dump truck carriers are unable readily to meet that demand. A temporary permit shall authorize the applicant to operate as a dump truck carrier for a period of time specified by the commission in accordance with all of the following:

(a) The issuance of a temporary permit shall authorize the applicant to operate as a dump truck carrier for not more than 90 consecutive days from the day of issuance.

(b) No renewal of a temporary permit shall be for a period of time exceeding 45 consecutive days immediately following the issuance or previous renewal period.

(c) No temporary permit shall be issued or renewed so as to authorize an applicant to operate as a dump truck carrier for more than 180 days in any calendar year.

(d) Notwithstanding subdivision (c), a dump truck carrier operating under a temporary permit may, within 30 days of receipt of the temporary permit, file an application for a permit pursuant to Section 3613. The temporary permit shall, notwithstanding its termination date, continue in effect until the commission has issued its decision on the application pursuant to Section 3613.

(e) Subdivision (b) of Section 3613 applies to the issuance or renewal of a temporary dump truck permit.

SEC. 7. Section 5004 of the Public Utilities Code is amended to read:

5004. The following fees shall be paid to the commission, pursuant to permits issued under the Highway Carriers' Act (Chapter 1 (commencing with Section 3501)):

(a) Five hundred dollars ($500) for filing each application for a permit, except applications for a seasonal permit.

(b) One hundred fifty dollars ($150) for filing each application to sell, mortgage, lease, assign, transfer, or otherwise encumber any permit, except that, for the transfer of each permit subsequent to the death of a permittee, and after court approval of the distribution of the estate or when it is not necessary to probate the will or distribute the estate through court, the fee is twenty-five dollars ($25).

(c) Twenty-five dollars ($25) for filing each application for issuance or renewal of a permit to operate as an agricultural carrier or livestock carrier on a seasonal basis, as authorized by Section 3584.2 or for issuance or renewal of a temporary dump truck carrier permit, as authorized by Section 3616.

SEC. 8. The amendment of Section 3520 of the Public Utilities Code enacted by Section 1 of this act does not constitute a change in, but is declaratory of, existing law.

SEC. 9. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Public Utilities Commission for purposes of this act.

CHAPTER 936

An act to amend Section 31404 of the Corporations Code, relating to corporations.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 31404 of the Corporations Code is amended to read:

31404. The commissioner may refer evidence that is available concerning any violation of this law or of any rule or order hereunder to the district attorney of the county in which the violation occurred, who may, with or without such a reference, institute appropriate criminal proceedings under this law. Upon request of the district attorney, the commissioner and the counsel, deputies, or assistants of the commissioner may assist the district attorney in presenting the law or facts at the trial.

CHAPTER 937

An act to amend Section 3387 of the Civil Code, relating to real property.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 3387 of the Civil Code is amended to read:

3387. It is to be presumed that the breach of an agreement to transfer real property cannot be adequately relieved by pecuniary compensation. In the case of a single-family dwelling which the party seeking performance intends to occupy, this presumption is conclusive. In all other cases, this presumption is a presumption affecting the burden of proof.

CHAPTER 938

An act to amend Sections 17024.5, 17041, 17042, 17053.5, 17062, 17062.1, 17063.2, 17063.3, 17063.4, 17063.11, 17069, 17071, 17085, 17220, 17276, 17503, 17507, 17510, 17513, 18152, 18171, 18244, 18411, 19404, 23186, 23251, 23253, 23400, 23772, 24342, 24354.1, 24357.5, 24457, 24465, 24483.5, 24602, 24603, 24667, 24837.5, and 25964 of, to amend and renumber Sections 18513 and 25959.3 of, to amend the heading of Article 9 (commencing with Section 17301) of Chapter 3 of Part 10 of Division 2 of, to add Sections 17021.5, 17064.8, 17225.5, 17276.5, 17287, 17302, 17303, 17310, 17736, 18171.5, 18176, 23405, 24416, 24417, and 25110 to, to add Chapter 11.7 (commencing with Section 24591) to Part 11 of Division 2 of, and to repeal Sections 17064.6, 17069.5, 17134, 17135, 17201.5, 17202.7, 17276.2, 18803.5, 18836, 23252, 23253a, 23253b, 23253c, 23254, 24342, 24342.5, and 24343.9 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 17021.5 is added to the Revenue and Taxation Code, to read:

17021.5. For purposes of this part, marital status shall be determined in accordance with Section 143 of the Internal Revenue Code.

SEC. 1.3. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto in effect on the specified date for the applicable taxable year as follows:

Taxable Year	Effective Date of Internal Revenue Code Sections
(1) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(2) For taxable years beginning on or after January 1, 1984.....	January 15, 1983

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump-sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Nonresident aliens.

(13) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (see Section 18162.5 for amounts includable in income for purposes of this part).

(14) Section 1245 of the Internal Revenue Code recovery property.

(15) Recovery property specified in Section 168 of the Internal Revenue Code.

(16) Section 179 of the Internal Revenue Code property.

(17) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(18) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(19) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of

this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to "adjusted gross income" (AGI) shall mean the amount computed as adjusted gross income, in accordance with Section 17072, on the California income tax return for the same taxable year.

SEC. 1.5. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984	January 1, 1984

(2) Unless otherwise specifically provided, the following shall apply:

(A) Any provision of the Internal Revenue Code which becomes operative on or after the specified date shall also become operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which becomes inoperative on or after the specified date, shall also become inoperative on the same date for purposes of this part.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump-sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Nonresident aliens.

(13) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (see Section 18162.5 for amounts includable in income for purposes of this part).

(14) Section 1245 of the Internal Revenue Code recovery property.

(15) Recovery property specified in Section 168 of the Internal Revenue Code.

(16) Section 179 of the Internal Revenue Code property.

(17) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(18) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(19) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(20) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of

this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to "adjusted gross income" (AGI) shall mean the amount computed as adjusted gross income, in accordance with Section 17072, on the California income tax return for the same taxable year.

SEC. 1.7. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $1,000	No tax
Over $1,000 but not over $3,000	1% of the taxable income
Over $3,000 but not over $4,500	$20 plus 2% of excess over $3,000

Over $4,500 but not over $6,000	$50 plus 3% of excess over $4,500
Over $6,000 but not over $7,500	$95 plus 4% of excess over $6,000
Over $7,500 but not over $9,000	$155 plus 5% of excess over $7,500
Over $9,000 but not over $10,500	$230 plus 6% of excess over $9,000
Over $10,500 but not over $12,000	$320 plus 7% of excess over $10,500
Over $12,000 but not over $13,500	$425 plus 8% of excess over $12,000
Over $13,500 but not over $15,000	$545 plus 9% of excess over $13,500
Over $15,000 but not over $16,500	$680 plus 10% of excess over $15,000
Over $16,500	$830 plus 11% of excess over $16,500

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	No tax
Over $2,000 but not over $6,000	1% of the taxable

	income
Over $6,000 but not over $8,000	$40 plus 2% of excess over $6,000
Over $8,000 but not over $9,500	$80 plus 3% of excess over $8,000
Over $9,500 but not over $11,000	$125 plus 4% of excess over $9,500
Over $11,000 but not over $12,500	$185 plus 5% of excess over $11,000
Over $12,500 but not over $14,000	$260 plus 6% of excess over $12,500
Over $14,000 but not over $15,500	$350 plus 7% of excess over $14,000
Over $15,500 but not over $17,000	$455 plus 8% of excess over $15,500
Over $17,000 but not over $18,500	$575 plus 9% of excess over $17,000
Over $18,500 but not over $20,000	$710 plus 10% of excess over $18,500
Over $20,000	$860 plus 11% of excess over $20,000

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	1% of the taxable income
Over $2,000 but not over $3,500	$20 plus 2% of excess over $2,000
Over $3,500 but not over $5,000	$50 plus 3% of excess over $3,500
Over $5,000 but not over $6,500	$95 plus 4% of excess over $5,000
Over $6,500 but not over $8,000	$155 plus 5% of excess over $6,500
Over $8,000 but not over $9,500	$230 plus 6% of excess over $8,000
Over $9,500 but not over $11,000	$320 plus 7% of excess over $9,500
Over $11,000 but not over $12,500	$425 plus 8% of excess over $11,000
Over $12,500 but not over $14,000	$545 plus 9% of excess over $12,500
Over $14,000 but not over $15,500	$680 plus 10% of excess over $14,000
Over $15,500	$830 plus 11% of excess over $15,500

(f) The tax imposed by this part is not a surtax.

(g) For each taxable year beginning on or after January 1, 1978, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a), (c), and (e). Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) For taxable years beginning on or after January 1, 1978, and ending on or before November 30, 1979, the Franchise Tax Board shall recompute the income tax brackets by multiplying each income bracket figure in subdivisions (a), (c), and (e) by the inflation adjustment factor of 1.05222, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(3) For taxable years beginning on or after January 1, 1979, and ending on or before November 30, 1980, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure furnished pursuant to paragraph (1) which exceeds three percent (3%), and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(4) For taxable years beginning on or after January 1, 1980 and ending on or before November 30, 1982, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(5) For taxable years beginning on and after January 1, 1982, and thereafter, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(h) For taxable years beginning on or after January 1, 1983, and thereafter, the Franchise Tax Board shall include the standard deduction in effect for the 1982 taxable year pursuant to former Section 17171 in the base for recomputation of the income tax brackets pursuant to paragraph (5) of subdivision (g).

For purposes of this part, the zero bracket amount defined by subdivision (b) of Section 17073 shall be equal to the amount that otherwise would have been computed as the standard deduction under former Section 17171.

It is the intent of the Legislature that the zero bracket amount shall replace the standard deduction formerly provided by Article 4 (commencing with Section 17171) of Chapter 3, and shall be treated as an additional tax bracket to be recomputed annually as prescribed by subdivision (g).

SEC. 1.8. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $1,000	No tax
Over $1,000 but not over $3,000	1% of the taxable income
Over $3,000 but not over $4,500	$20 plus 2%

	of excess over $3,000
Over $4,500 but not over $6,000	$50 plus 3% of excess over $4,500
Over $6,000 but not over $7,500	$95 plus 4% of excess over $6,000
Over $7,500 but not over $9,000	$155 plus 5% of excess over $7,500
Over $9,000 but not over $10,500	$230 plus 6% of excess over $9,000
Over $10,500 but not over $12,000	$320 plus 7% of excess over $10,500
Over $12,000 but not over $13,500	$425 plus 8% of excess over $12,000
Over $13,500 but not over $15,000	$545 plus 9% of excess over $13,500
Over $15,000 but not over $16,500	$680 plus 10% of excess over $15,000
Over $16,500	$830 plus 11% of excess over $16,500

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	No tax
Over $2,000 but not	

over $6,000	1% of the taxable income
Over $6,000 but not over $8,000	$40 plus 2% of excess over $6,000
Over $8,000 but not over $9,500	$80 plus 3% of excess over $8,000
Over $9,500 but not over $11,000	$125 plus 4% of excess over $9,500
Over $11,000 but not over $12,500	$185 plus 5% of excess over $11,000
Over $12,500 but not over $14,000	$260 plus 6% of excess over $12,500
Over $14,000 but not over $15,500	$350 plus 7% of excess over $14,000
Over $15,500 but not over $17,000	$455 plus 8% of excess over $15,500
Over $17,000 but not over $18,500	$575 plus 9% of excess over $17,000
Over $18,500 but not over $20,000	$710 plus 10% of excess over $18,500
Over $20,000	$860 plus 11% of excess over $20,000

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California source adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $2,000	1% of the taxable income
Over $2,000 but not over $3,500	$20 plus 2% of excess over $2,000
Over $3,500 but not over $5,000	$50 plus 3% of excess over $3,500
Over $5,000 but not over $6,500	$95 plus 4% of excess over $5,000
Over $6,500 but not over $8,000	$155 plus 5% of excess over $6,500
Over $8,000 but not over $9,500	$230 plus 6% of excess over $8,000
Over $9,500 but not over $11,000	$320 plus 7% of excess over $9,500
Over $11,000 but not over $12,500	$425 plus 8% of excess over $11,000
Over $12,500 but not over $14,000	$545 plus 9% of excess over $12,500
Over $14,000 but not over $15,500	$680 plus 10% of excess over $14,000
Over $15,500	$830 plus 11% of excess over $15,500

(f) The tax imposed by this part is not a surtax.

(g) For each taxable year beginning on or after January 1, 1978, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a), (c), and (e). Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) For taxable years beginning on or after January 1, 1978, and ending on or before November 30, 1979, the Franchise Tax Board shall recompute the income tax brackets by multiplying each income bracket figure in subdivisions (a), (c), and (e) by the inflation adjustment factor of 1.05222, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(3) For taxable years beginning on or after January 1, 1979, and ending on or before November 30, 1980, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure furnished pursuant to paragraph (1) which exceeds three percent (3%), and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(4) For taxable years beginning on or after January 1, 1980 and ending on or before November 30, 1982, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(5) For taxable years beginning on and after January 1, 1982, and thereafter, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(h) For taxable years beginning on or after January 1, 1983, and thereafter, the Franchise Tax Board shall include the standard deduction in effect for the 1982 taxable year pursuant to former Section 17171 in the base for recomputation of the income tax brackets pursuant to paragraph (5) of subdivision (g).

For purposes of this part, the zero bracket amount defined by subdivision (b) of Section 17073 shall be equal to the amount that otherwise would have been computed as the standard deduction under former Section 17171.

It is the intent of the Legislature that the zero bracket amount shall replace the standard deduction formerly provided by Article 4 (commencing with Section 17171) of Chapter 3, and shall be treated as an additional tax bracket to be recomputed annually as prescribed by subdivision (g).

(i) Notwithstanding subdivisions (b) and (d), or any other provisions of law, all active duty pay and allowances received by any person stationed in California while serving on active duty with any branch of the military forces of the United States, who is not a permanent resident of this state, shall be exempt from taxation under this part and shall be excluded from any income tax computation required by this part, including, but not limited to, combining in any manner that pay and those allowances with the taxable income of the working spouse or any other member of that military person's household for the purposes of computing the income tax liability under this part of that spouse or any other member of the household.

SEC. 2. Section 17042 of the Revenue and Taxation Code is amended to read:

17042. (a) For purposes of this part, an individual shall be

considered a head of a household if he or she qualifies under Section 2(b) and (c) of the Internal Revenue Code.

(b) The special provisions of Section 17042.5 relating to joint custody head of household shall be applicable.

SEC. 3. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who on March 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On that date rented and occupied premises in this state which constitute his or her principal place of residence.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This para-

graph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(f) The credit provided in this section shall be claimed on returns in that form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432.

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 3.1. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Either—

(A) On March 1 of the taxable year rented and occupied premises in this state which consituted his or her principal place of residence, or

(B) Was absent from this state on March 1 as a result of military service, but who rented and resided in premises in this state during 50 percent of the taxable year, including January 1 or December 31.

The term "qualified renter" does not include an individual who on March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(f) The credit provided in this section shall be claimed on returns in that form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432.

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 3.2. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against the tax computed under this part, minus all other credits provided for in this part except the credit provided in Section 18551.1 (relating to withholding credit), the credit provided in Section 17061 (relating to excess tax credit), the credit provided in Section 17052.5 (relating to solar energy tax credit), the credit provided in Section 17052.8 (relating to energy conservation measure tax credit), and the credit provided in Section 17061.5 (relating to worker contribution credits). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an

individual who on January 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On that date rented and occupied premises in this state which constitute his or her principal place of residence.

The term "qualified renter" does not include an individual who on January 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she pays possessory interest taxes, or the owner of the premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed that individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of his or her claim, and under penalty of perjury, furnish the information which the Franchise Tax Board prescribes on a form supplied by the board.

(f) The credit provided in this section shall be claimed on returns in the form which the Franchise Tax Board may from time to time prescribe, and shall be filed with the board on the date prescribed by Section 18432.

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 3.3. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (d).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (d).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Either—

(A) On January 1 of the taxable year rented and occupied premises in this state which constituted his or her principal place of residence, or

(B) Was absent from this state on January 1 as a result of military service, but who rented and resided in premises in this state during 50 percent of the taxable year, including January 1 or December 31.

The term "qualified renter" does not include an individual who on January 1 of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed that individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who

has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of his or her claim, and under penalty of perjury, furnish the information which the Franchise Tax Board prescribes on a form supplied by the board.

(f) The credit provided in this section shall be claimed on returns in the form which the Franchise Tax Board may from time to time prescribe, and shall be filed with the board on the date prescribed by Section 18432.

(g) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17052.5, 17052.8, 17061, 17061.5, and 18551.1, the qualified renter shall be allowed a credit to the extent of his or her tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section.

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature and the changes made to subdivisions (a) and (b) of this section by the 1979–80 Legislature, shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 4.3. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, with respect to the income of every taxpayer under this part except heads of household, as defined in Section 17042, taxes in the following amounts and at the following rates on the amount (if any) of the sum of the items of tax preference for the taxable year:

If the amount of tax preference income is:	The tax is:
Over $4,000 but not over $5,500	½ of 1% of the

	taxable preference income in excess of $4,000
Over $5,500 but not over $7,000	$7.50 plus 1% of the excess over $5,500
Over $7,000 but not over $8,500	$22.50 plus 1½% of the excess over $7,000
Over $8,500 but not over $10,000	$45 plus 2% of the excess over $8,500
Over $10,000 but not over $11,500	$75 plus 2½% of the excess over $10,000
Over $11,500 but not over $13,000	$112.50 plus 3% of the excess over $11,500
Over $13,000 but not over $14,500	$157.50 plus 3½% of the excess over $13,000
Over $14,500 but not over $16,000	$210 plus 4% of the excess over $14,500
Over $16,000 but not over $17,500	$270 plus 4½% of the excess over $16,000
Over $17,500 but not over $19,000	$337.50 plus 5% of the excess over $17,500
Over $19,000	$412.50 plus 5½% of the excess over $19,000

SEC. 4.5. Section 17062.1 of the Revenue and Taxation Code is amended to read:

17062.1. In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, with respect to the income of every head of household, as defined in Section 17042, taxes in the following amounts and at the following rates on the amount (if any) of tax preference income for the taxable year:

If the amount of tax preference income is:	The tax is:
Over $8,000 but not over $10,000	½ of 1% of taxable preference income

	in excess of $8,000
Over $10,000 but not over $11,500	$10 plus 1% of the excess over $10,000
Over $11,500 but not over $13,000	$25 plus 1½% of the excess over $11,500
Over $13,000 but not over $14,500	$47.50 plus 2% of the excess over $13,000
Over $14,500 but not over $16,000	$77.50 plus 2½% of the excess over $14,500
Over $16,000 but not over $17,500	$115 plus 3% of the excess over $16,000
Over $17,500 but not over $19,000	$160 plus 3½% of the excess over $17,500
Over $19,000 but not over $20,500	$212.50 plus 4% of the excess over $19,000
Over $20,500 but not over $22,000	$272.50 plus 4½% of the excess over $20,500
Over $22,000 but not over $23,500	$340 plus 5% of the excess over $22,000
Over $23,500	$415 plus 5½% of the excess over $23,500

SEC. 5. Section 17063.2 of the Revenue and Taxation Code is amended to read:

17063.2. (a) For purposes of subdivision (a) of Section 17063, the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

(1) The deduction for state and local taxes provided by Section 164(a) of the Internal Revenue Code,

(2) The deduction for medical, dental, etc., expenses provided by Section 213 of the Internal Revenue Code,

(3) The deduction for casualty losses described in Section 165(c)(3) of the Internal Revenue Code, exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in paragraphs (1) through (3) for the taxable year.

(b) In the case of a trust or estate, any deduction allowed or

allowable for the taxable year—

(1) Under Section 642(c) of the Internal Revenue Code (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under Section 662(a) of the Internal Revenue Code for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

(2) Under Section 642(e), 642(f), 651, 661, or 691 of the Internal Revenue Code; or

(3) For costs paid or incurred in connection with the administration of the trust or estate shall, for purposes of subdivision (a), be treated as a deduction allowable in arriving at an adjusted gross income.

SEC. 6. Section 17063.3 of the Revenue and Taxation Code is amended to read:

17063.3. For purposes of subdivision (h) of Section 17063:

(a) "Straight line recovery of intangibles," when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under subdivision (b)) ratable amortization of those costs over the 120-month period beginning with the month in which production from the well begins.

(b) If the taxpayer elects, at such time and in such manner as the Franchise Tax Board may by regulations prescribe, with respect to the intangible drilling and development costs for any well, "straight line recovery of intangibles" means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subdivision (h) of Section 17063.

SEC. 7. Section 17063.4 of the Revenue and Taxation Code is amended to read:

17063.4. (a) For the purpose of Section 17063, the following are not items of the preference:

(1) That portion of capital gains attributable to the sale or exchange of residential rental property which is two or more dwelling units in the same structure situated in California and under the same ownership (as described in Section 167(j)(2) of the Internal Revenue Code).

(2) Depreciation claimed upon residential rental property which is two or more dwelling units in the same structure situated in California and under the same ownership (as described in Section 167(j)(2) of the Internal Revenue Code).

(b) The provisions of this section shall be operative only in those taxable years in which substantially similar provisions are operative in federal law, and shall cease to be operative on January 1, 1988, and on that date are repealed.

SEC. 8. Section 17063.11 of the Revenue and Taxation Code is amended to read:

17063.11. For the purpose of Section 17063, that portion of capital gains attributable to the sale of small business stock, as defined in

Section 18162.5, is not an item of tax preference.

SEC. 8.3. Section 17064.6 of the Revenue and Taxation Code is repealed.

SEC. 8.5. Section 17064.8 is added to the Revenue and Taxation Code, to read:

17064.8. (a) If, for any taxable year, a taxpayer—

(1) Has a net operating loss any portion of which (under Section 172 of the Internal Revenue Code, as modified by Section 17276) remains as a net operating loss carryover to a succeeding taxable year, and

(2) Has items of tax preference, then an amount of tax on those preference items shall be computed for the taxable year, but the tax imposed by Section 17062 or 17062.1 shall be deferred to the extent of the ratio of net operating loss carryover to total items of tax preference not to exceed 100 percent.

(b) In any taxable year in which any portion of the net operating loss attributable to the amount described in paragraph (2) of subdivision (a) reduces taxable income, the tax deferred by paragraph (2) of subdivision (a) shall be treated as a tax liability imposed in proportion to the ratio of preference items so utilized to the total preference items contained in the net operating loss carryover.

(c) If any amount of the net operating loss carryover described in paragraph (1) of subdivision (a) is not attributable to the amount described in paragraph (2) of subdivision (a), that amount shall be applied to reduce taxable income before any other amount.

SEC. 8.7. Section 17069 of the Revenue and Taxation Code is amended to read:

17069. (a) For taxable years beginning on or after January 1, 1976, a nonrefundable special tax credit in the amount provided in paragraph (1) or (2) shall be allowed as follows:

(1) In the case of a single person, or a married person filing a separate return, the special tax credit shall be forty dollars ($40) if the adjusted gross income of the taxpayer is five thousand dollars ($5,000) or less. If the adjusted gross income exceeds five thousand dollars ($5,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of five thousand dollars ($5,000).

(2) In the case of a head of household, a surviving spouse, or a married couple filing a joint return, the special tax credit shall be eighty dollars ($80) if the adjusted gross income of the taxpayer is ten thousand dollars ($10,000) or less. If the adjusted gross income of the taxpayer exceeds ten thousand dollars ($10,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of ten thousand dollars ($10,000).

(3) The special tax credit set forth in this subdivision shall not be available to a single person or a married person filing a separate return whose total income (as defined in subdivision (e)) exceeds ten thousand dollars ($10,000), or a head of household, a surviving

spouse, or a married couple filing a joint return whose total income exceeds twenty thousand dollars ($20,000).

(4) The special tax credit set forth in this subdivision shall not be available to any taxpayer required to pay the tax on preference income imposed in Chapter 2.1 (commencing with Section 17062), during the taxable year.

(b) If, after the tax credit provided by this section is claimed, the Franchise Tax Board determines that the taxpayer's tax liability is more or less than the amount shown on the return, a corresponding adjustment shall be made by the Franchise Tax Board for the special tax credit.

(c) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part or to nonresidents as of the close of the taxable year for which the credit is claimed.

(d) For the purposes of this section, the adjusted gross income of a nonresident means gross income from sources both within and without this state less the deductions allowed by Section 17072.

(e) For the purposes of this section, total income means adjusted gross income, as defined in Section 17072, increased by the adjustments to income provided in Section 62(12) of the Internal Revenue Code (relating to penalty for premature withdrawal of certain funds), Section 104 of the Internal Revenue Code (relating to sick pay), Sections 17138 to 17140, inclusive (relating to military exclusion), Section 62(2) of the Internal Revenue Code (relating to employee business expenses), Section 62(7) of the Internal Revenue Code (relating to individual retirement accounts, annuities, and bond deductions), Section 62(8) of the Internal Revenue Code (relating to moving expenses), Section 401(j) of the Internal Revenue Code (relating to self-employed defined benefit plans), and Section 404(e) of the Internal Revenue Code (relating to self-employed retirement plan deductions).

(f) For the purposes of subdivision (a),

(1) For each taxable year beginning on or after January 1, 1979, the Franchise Tax Board shall recompute credits prescribed in such subdivision. Such computation shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to subparagraph (A) and divide the result by 100.

(C) The Franchise Tax Board shall multiply each of the prior taxable year's credits by the inflation adjustment factor provided in subparagraph (B), rounded off to the nearest one dollar ($1).

SEC. 9. Section 17069.5 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 17071 of the Revenue and Taxation Code is

amended to read:

17071. Gross income shall be defined by Section 61 of the Internal Revenue Code.

SEC. 11. Section 17085 of the Revenue and Taxation Code is amended to read:

17085. (a) (1) This section shall apply to amounts—

(A) Distributed to a distributee, in the case of an employee's trust described in Section 401(a) of the Internal Revenue Code, which is exempt from tax under Section 17631, or

(B) Paid to a payee, in the case of an annuity plan described in Section 403(a) of the Internal Revenue Code,

if the total distributions or amounts payable to the distributee or payee with respect to an employee (including an individual who is an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code) are paid to the distributee or payee within one taxable year of the distributee or payee, but only to the extent that Section 402(a)(2) of the Internal Revenue Code or Section 403(a)(2) of the Internal Revenue Code does not apply to those amounts.

(2) This section shall apply only to distributions or amounts paid—

(A) On account of the employee's death,

(B) With respect to an individual who is an employee without regard to Section 401(c)(1) of the Internal Revenue Code, on account of his or her separation from the service,

(C) With respect to an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code, after he or she has attained the age of 59½ years, or

(D) With respect to an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code, after he or she has become disabled (within the meaning of Section 72(m)(7) of the Internal Revenue Code.

(3) This section shall apply to amounts distributed or paid to an employee from or under a plan only if he or she has been a participant in the plan for five or more taxable years prior to the taxable year in which those amounts are distributed or paid.

(4) This section shall not apply to amounts described in Section 72(m)(5)(A)(ii) of the Internal Revenue Code.

(b) In any case to which this section applies, the tax attributable to the amounts to which this section applies for the taxable year in which those amounts are received shall not exceed whichever of the following is the greater:

(1) Five times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includable in gross income, or

(2) Five times the increase in tax which would result if the taxable income of the recipient for that taxable year equaled 20 percent of the amount of the taxable income of the recipient for that taxable year determined under paragraph (1) of subdivision (c).

(c) Notwithstanding Section 17073 (relating to definition of taxable income), for purposes only of computing the tax under this part

attributable to amounts to which this section or Section 72(m) (5) of the Internal Revenue Code applies and which are includable in gross income—

(1) The taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the aggregate of those amounts so includable in gross income; and

(2) In making ratable inclusion computations under Section 72(m) (5) (B) of the Internal Revenue Code, the taxable income of the recipient for each taxable year involved in the ratable inclusion shall be treated as being not less than the amount required by Section 72(m) (5) (B) of the Internal Revenue Code to be treated as includable in gross income for that taxable year.

In any case in which the preceding sentence results in an increase in taxable income for any taxable year, the resulting increase in the taxes imposed by Section 17041 for that taxable year shall not be reduced by any credit under this part which, but for this sentence, would be allowable.

(d) In the case of amounts to which this section applies which are distributed or paid with respect to an individual who is an employee without regard to Section 401(c) (1) of the Internal Revenue Code, subdivision (b) shall be applied with the following modifications:

(1) "Seven times" shall be substituted for "five times," and "14⅗ percent" shall be substituted for "20 percent."

(2) Any amount which is received during the taxable year by the employee as compensation (other than as deferred compensation within the meaning of Sections 404(a) to 404(g), inclusive, of the Internal Revenue Code) for personal services performed for the employer in respect of whom the amounts distributed or paid are received shall not be taken into account.

(3) No portion of the total distributions or amounts payable (of which the amounts distributed or paid are a part) to which Section 402(a) (2) of the Internal Revenue Code or Section 403(a) (2) (A) applies shall be taken into account.

Paragraph (2) shall not apply if the employee has not attained the age of 59½ years unless he or she has died or become disabled (within the meaning of Section 72(m) (7) of the Internal Revenue Code).

SEC. 11.1. Section 17134 of the Revenue and Taxation Code is repealed.

SEC. 11.2. Section 17135 of the Revenue and Taxation Code is repealed.

SEC. 11.3. Section 17201.5 of the Revenue and Taxation Code is repealed.

SEC. 11.7. Section 17202.7 of the Revenue and Taxation Code is repealed.

SEC. 11.8. Section 17220 of the Revenue and Taxation Code is amended to read:

17220. No deduction shall be allowed for any of the following:

(a) State, local, and foreign income, war profits, and excess profits taxes.

(b) Sales tax paid or incurred in connection with the purchase of qualified property for which a tax credit is claimed pursuant to Section 17052.13.

SEC. 11.9. Section 17225.5 is added to the Revenue and Taxation Code, to read:

17225.5. In computing taxable income no deduction shall be allowed to the obligor of a covenant bond for the payment of the tax imposed by this part, or any other tax paid pursuant to the tax-free covenant clause, nor shall that tax be included in the gross income of the obligee.

SEC. 12.2. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. The deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) The deduction shall be allowed only to a "qualified taxpayer" as provided by Section 17276.5.

(b) Net operating losses attributable to years beginning before January 1, 1984, shall not be allowed.

(c) Net operating loss carrybacks shall not be allowed.

(d) Section 172(d)(2) of the Internal Revenue Code shall be modified to provide that the amount of gains and losses recognized from sale or exchange of capital assets shall be determined without reference to Section 18162.5.

(e) For purposes of computing the net operating loss deduction under Section 172(a) of the Internal Revenue Code, as modified by this section, the amount of a net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(1) The portion of the net operating loss attributable to the part of the year in which the taxpayer is a resident.

(2) The portion of the net operating loss which, during the part of the year the taxpayer is not a resident, is attributable to California source income and deductions.

The zero bracket amount to be included in the computation of the net operating loss for any year any part of which the taxpayer is not a resident of this state is the amount determined by multiplying the zero bracket amount by the ratio (determined using values expressed as positive amounts when either or both are negative numbers) of California source adjusted gross income to total adjusted gross income from all sources but the amount so determined shall not exceed the zero bracket amount.

SEC. 12.3. Section 17276.2 of the Revenue and Taxation Code is repealed.

SEC. 12.4. Section 17276.5 is added to the Revenue and Taxation Code, to read:

17276.5. The term "qualified taxpayer" as used in Section 17276 means any one of the following:

(a) A taxpayer engaged in a new small business.

(1) A net operating loss of a new small business shall not be a net operating loss carryback to any taxable year and shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.

(A) A net operating loss may be carried over only by the individual or legal entity incurring the net operating loss.

(B) A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business.

(C) The total amount of net operating loss a new small business may carry over pursuant to Section 17276 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all taxable years.

(2) For purposes of this subdivision, the definition of "small business" established by the Department of General Services shall apply, with the following modifications:

(A) A taxpayer shall qualify as a "small business" if the gross receipts for the initial year of operation do not exceed one-third of the maximum receipts specified in Sections 1896(a) and 1896(m) (1) (B) of subchapter 8 of Title 2 of the California Administrative Code for the applicable industry group. If the maximum receipts specified are modified at any time during the taxable year, the amount stated at the end of the taxable year shall apply.

(B) Where the initial calendar year of operation is less than 12 months, gross receipts for that year shall be annualized for purposes of applying subparagraph (A).

(C) The taxpayer shall bear the burden of furnishing all information in support of a claim that it qualifies as a new "small business" as defined in this subdivision.

The term "new small business" does not include any business or corporation which, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the business or corporation under a new name.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(4) For purposes of this subdivision, "net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to a new small business.

(b) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the three taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(c) A taxpayer who commences the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 taxable years following the taxable year of loss, if longer.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(d) A taxpayer who qualifies as a "qualified taxpayer" shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is

eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account the election required by subdivision (e) and shall be consistent with that election.

(e) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall elect which subdivision of this section is to apply to the taxpayer. The election is to be made in a statement attached to the original return, timely filed, for the year the net operating loss is incurred and shall be irrevocable.

SEC. 12.5. Section 17276.5 is added to the Revenue and Taxation Code, to read:

17276.5. The term "qualified taxpayer" as used in Section 17276 means any one of the following:

(a) A taxpayer engaged in a new small business.

(1) A net operating loss of a new small business shall not be a net operating loss carryback to any taxable year and shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.

(A) A net operating loss may be carried over only by the individual or legal entity incurring the net operating loss.

(B) A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business.

(C) The total amount of net operating loss a new small business may carry over pursuant to Section 17276 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all taxable years.

(2) For purposes of this subdivision, the definition of "small business" established by the Department of General Services shall apply, with the following modifications:

(A) A taxpayer shall qualify as a "small business" if the gross receipts for the initial year of operation do not exceed one-third of the maximum receipts specified in Sections 1896(a) and 1896(m)(1)(B) of subchapter 8 of Title 2 of the California Administrative Code for the applicable industry group. If the maximum receipts specified are modified at any time during the taxable year, the amount stated at the end of the taxable year shall apply.

(B) Where the initial calendar year of operation is less than 12 months, gross receipts for that year shall be annualized for purposes of applying subparagraph (A).

(C) The taxpayer shall bear the burden of furnishing all information in support of a claim that it qualifies as a new "small business" as defined in this subdivision.

The term "new small business" does not include any business or corporation which, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the business or corporation under a new name.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(4) For purposes of this subdivision, "net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to a new small business.

(b) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the three taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(c) A taxpayer who commences the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 taxable years following the taxable year of loss, if longer.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the factor formula apportionment method provided in Article 2 (commencing

with Section 25120) of Chapter 17 of Part 11.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(d) A taxpayer engaged in the business of farming in this state.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.

(A) A net operating loss may be carried over only by the individual or legal entity incurring the net operating loss, except as provided by Section 642(h) of the Internal Revenue Code.

(B) The total amount of net operating loss that a taxpayer may carryover pursuant to Section 17276 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of fifty thousand dollars ($50,000) for any one taxable year. The net operating loss deductions claimed by any taxpayer pursuant to Section 17276 and incurred between any taxable year beginning after December 31, 1983, through any taxable year ending December 31, 1993, shall not exceed an aggregate of two hundred fifty thousand dollars ($250,000). In the taxable years beginning after December 31, 1993, the net operating loss deductions claimed by any taxpayer pursuant to Section 17276 and incurred for any taxable year beginning after December 31, 1983, shall not exceed an aggregate of five hundred thousand dollars ($500,000).

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributed to the business of farming.

(B) A net operating loss carryover shall be a deduction only against income attributed to the business of farming.

(C) The term "business of farming" means that at least two-thirds of the taxpayer's gross income from all sources for three out of the immediately preceding five years is from farming. The term "business of farming" shall have the same meaning as the term "carrying on of the trade or business of farming" as that term is used in Section 17064.7.

(D) The term "in this state" means that the sum of the taxpayer's payroll and property factors in this state divided by two is at least two-thirds. For the purposes of this subdivision, "property factor" is the same as that defined in Section 25129. For the purposes of this subdivision, "payroll factor" is the same as that defined in Section 25132. For the purposes of this subdivision, the property factor shall not include the lease or fee payments for grazing rights for periods

of six months or less in an annual period.

(3) Where 50 percent or more of the stock of a corporation engaged in the business of farming is owned by a taxpayer (including the taxpayer's spouse or minor child) engaged in the business of farming, the aggregate net farm operating loss deductions of the taxpayer (including the taxpayer's spouse or minor child) and the corporation cannot exceed the amounts specified in subparagraph (B) of paragraph (1).

(4) This subdivision shall not apply to any taxpayer engaged in the business of farming which, principally for the purpose of avoiding tax, liquidates assets, in whole or in part, and then subsequently reorganizes that portion of the business under a new name.

(5) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(e) A taxpayer who qualifies as a "qualified taxpayer" shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account the election required by subdivision (f) and shall be consistent with that election.

(f) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall elect which subdivision of this section is to apply to the taxpayer. The election is to be made in a statement attached to the original return, timely filed, for the year the net operating loss is incurred and shall be irrevocable.

SEC. 13. Section 17287 is added to the Revenue and Taxation Code, to read:

17287. For purposes of this part, the provisions of Section 269A of the Internal Revenue Code shall be modified by substituting "California Personal Income Tax" for "Federal income tax."

SEC. 13.5. The heading of Article 9 (commencing with Section 17301) of Chapter 3 of Part 10 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 9. Special Rules for Nonresidents and Part-year Residents

SEC. 14. Section 17302 is added to the Revenue and Taxation Code, to read:

17302. The deduction provided by Section 215 of the Internal Revenue Code, relating to alimony payments, shall not be subtracted from California gross income by a nonresident or by a part-year resident for any portion of the year during which he or she was not a resident of this state.

SEC. 14.5. Section 17303 is added to the Revenue and Taxation

Code, to read:

17303. In the case of a part-year resident, income from sources within this state includes income from whatever source derived during the period of residence in this state.

SEC. 14.7. Section 17310 is added to the Revenue and Taxation Code, to read:

17310. A net operating loss sustained in a taxable year during any part of which the taxpayer was not a resident of this state shall be allowed, in accordance with the provisions of Section 17276, in computing the net operating loss deduction under Section 172(a) of the Internal Revenue Code to be subtracted from California gross income.

SEC. 15. Section 17503 of the Revenue and Taxation Code is amended to read:

17503. (a) For the taxable years beginning in 1983 only, the provisions of Section 401(j) of the Internal Revenue Code, relating to defined benefit plans for self-employed individuals, shall be modified as follows:

(1) The limitation on annual compensation provided by Section 401(j)(2)(A) of the Internal Revenue Code shall be twenty-five thousand dollars ($25,000).

(2) The applicable percentage provided by Section 401(j)(3)(A) of the Internal Revenue Code shall be the following:

Age when participation began:	Applicable percentage
30 or less	3.5
35	2.8
40	2.3
45	1.8
50	1.5
55	1.2
60 or over	1.0

(b) For taxable years beginning after December 31, 1983, the amount deductible by an employer for funding a defined benefit plan with respect to a self-employed individual defined in Section 401(c) of the Internal Revenue Code shall be determined in accordance with subdivision (c) of Section 17513.

SEC. 16. Section 17507 of the Revenue and Taxation Code is amended to read:

17507. The provisions of Section 408 of the Internal Revenue Code, relating to individual retirement accounts, shall be modified as follows:

(a) The following provisions shall be incorporated into Section 408(e) of the Internal Revenue Code:

(1) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to, and in conformance with, Section 408 or 409 of the Internal Revenue Code of 1954, as

amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), any net income attributable to the 1975 contribution shall not be includable in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(2) In the case of a simplified employee pension, where contributions are also made pursuant to, and in conformance with, the provisions of Section 408(k) of the Internal Revenue Code of 1954, the net income attributable to the nondeductible portion of such contributions shall not be includable in the gross income of the individual for whose benefit the plan was established for the taxable year or for succeeding taxable years until distributed pursuant to the provisions of the plan or by operation of law.

(3) Notwithstanding the limitations provided in Section 17272 with respect to the amount of deductible contributions and individuals eligible for the deduction, any income attributable to contributions made to a plan in existence in taxable years beginning on or after January 1, 1982, in conformance with Sections 219, 220, 408, and 409 of the Internal Revenue Code of 1954, as amended by Public Law 97-34, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law. The Franchise Tax Board shall prescribe regulations with respect to the determination of the amount of the income included in the amount distributed or deemed distributed by operation of law which is includable in the individual's gross income in the taxable year in which the distribution is received or deemed distributed by operation of law.

(b) The additional tax imposed by Section 408(f) of the Internal Revenue Code shall be an amount equal to 2½ percent of the amount required to be included in gross income.

(c) The provisions of Section 408(d) of the Internal Revenue Code are modified as follows:

(1) For taxable years beginning on or after January 1, 1983, Section 408(d)(1) of the Internal Revenue Code shall be modified to provide that the basis of any person in such an account or annuity is the amount of contributions not allowed as a deduction under subdivision (a), (c), (d), or (f) of Section 17272 on account of the purchase of the account or annuity.

(2) Any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall first be attributable to basis as defined in paragraph (1) and shall not be included in gross income until the amount excluded under this paragraph is equal to the amount of the basis.

SEC. 17. Section 17510 of the Revenue and Taxation Code is amended to read:

17510. Section 415 of the Internal Revenue Code, relating to limitations on benefits and contributions to qualified plans, is modified as follows:

(a) Section 415(c) (6) of the Internal Revenue Code, relating to a special limitation for an employee stock ownership plan, shall not be applicable.

(b) In the case where contributions are made to a defined contribution plan or an employee stock ownership plan, the following shall apply:

(1) The defined contribution plan shall not be disqualified because of the provisions of subdivision (a).

(2) The amount deductible under Section 404(a) (3) of the Internal Revenue Code is subject to the limitations provided in Section 415(c) of the Internal Revenue Code.

(c) The net income attributable to the nondeductible portion shall not be included in the gross income of the employee for the taxable year or for succeeding taxable years until distributed pursuant to a provision of the plan or by operation of law.

SEC. 18. Section 17513 of the Revenue and Taxation Code is amended to read:

17513. (a) For taxable years beginning in 1983 only, the provisions of Section 404(e) of the Internal Revenue Code, relating to special limitations for self-employed individuals, shall be modified as follows:

(1) The amounts deductible shall not exceed two thousand five hundred dollars ($2,500) or 10 percent of the earned income derived by the employee from the trade or business with respect to which the plan is established, whichever is the lesser.

(2) The provisions of Section 404(e) (4) of the Internal Revenue Code shall not be applicable.

(b) For taxable years beginning after December 31, 1983, the following special limitations on deductions for self-employed individuals are added to Section 404(e) of the Internal Revenue Code:

(1) In the case of a plan included in Section 404(a) (1), (2), or (3) of the Internal Revenue Code which provides contributions or benefits for employees some or all of whom are employees as defined in Section 401(c) (1) of the Internal Revenue Code, the amounts deductible under Section 404(a) of the Internal Revenue Code in any taxable year with respect to contributions on behalf of any employee as defined in Section 401(c) (1) of the Internal Revenue Code shall, subject to paragraph (2), not exceed two thousand five hundred dollars ($2,500) or 10 percent of the earned income derived by that employee from the trade or business with respect to which the plan is established, whichever is the lesser.

(2) (A) In any taxable year in which amounts are deductible with respect to contributions under two or more plans on behalf of an individual who is an employee as defined in Section 401(c) (1) of the Internal Revenue Code with respect to those plans, the aggregate amount deductible for that taxable year under all those plans with respect to contributions on behalf of that employee shall not exceed two thousand five hundred dollars ($2,500) or 10 percent of the earned income derived by that employee from the trades or busi-

nesses with respect to which the plans are established, whichever is the lesser.

(B) In any case in which the amounts deductible under Section 404(a) of the Internal Revenue Code (with the application of the limitations of this subdivision) with respect to contributions made on behalf of an employee as defined in Section 401(c)(1) of the Internal Revenue Code under two or more plans are, by reason of subparagraph (A), less than the amounts deductible under Section 404(a) of the Internal Revenue Code determined without regard to subparagraph (A), the amount deductible under Section 404(a) of the Internal Revenue Code with respect to those contributions under each such plan shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

(c) For taxable years beginning after December 31, 1983, the following special limitations for self-employed individuals shall be applicable:

(1) The amount deductible, in the case of a defined benefit plan with respect to the basic benefit accruing under the plan for each plan year of participation by an employee as defined in Section 401(c)(1) of the Internal Revenue Code, shall be limited to the amount determined in accordance with paragraph (2) to insure that there will be reasonable comparability (assuming level funding) between the maximum retirement benefits which may be provided with favorable tax treatment under this part for those employees under the following:

(A) Defined contribution plans.

(B) Defined benefit plans.

(C) A combination of defined contribution plans and defined benefit plans.

(2) The amount deductible under paragraph (1) shall not exceed the amount necessary to fund the basic benefit of any employee, as defined in Section 401(c)(1) of the Internal Revenue Code, which does not exceed the sum of the products for each plan year of participation of—

(A) The annual compensation (not in excess of twenty-five thousand dollars ($25,000)), for the year, and

(B) The applicable percentage determined under subparagraph (A) of paragraph (3).

(3) (A) For purposes of paragraph (2), the applicable percentage for any individual for any plan year shall be based on the percentage shown in the following table opposite the age when the current period of participation in the plan began.

Age when participation began:	Applicable percentage
30 or less	3.5
35	2.8
40	2.3
45	1.8

50	1.5
55	1.2
60 or over	1.0

(B) The Franchise Tax Board shall by form or regulation provide all of the following:

(i) For applicable percentages for ages between any two ages shown on the table.

(ii) For adjusting the applicable percentages in the case of plans providing benefits other than the basic benefit,

(iii) That any increase in the rate of accrual, and any increase in the compensation base which may be taken into account, shall, with respect only to that increase, begin a new period of participation in the plan.

(iv) When appropriate, in the case of periods beginning after December 31, 1977, for adjustments in the applicable percentages based on changes in prevailing interest and mortality rates occurring after 1973.

For purposes of this subparagraph, a change in the annual compensation taken into account under subparagraph (A) of paragraph (2) shall be treated as beginning a new period of plan participation with respect only to that change.

(4) No deduction under paragraph (1) shall be allowed if the defined benefit plan which provides contributions or benefits to employees as defined in Section 401(c)(1) of the Internal Revenue Code does not meet the requirements of Section 401(a)(4) of the Internal Revenue Code without taking into account contributions or benefits under Chapters 2 and 21 of the Internal Revenue Code or Title II of the Social Security Act or any other federal or state law.

(5) For purposes of this subdivision:

(A) "Basic benefit" means a benefit in the form of a straight life annuity commencing at the later of—

(i) Age 65, or

(ii) The day five years after the day the participant's current period of participation began,

under a plan which provides no ancillary benefits and to which employees do not contribute.

(B) "Compensation" means, in the case of an employee as defined in Section 401(c)(1) of the Internal Revenue Code, the earned income of that individual.

(C) Subdivision (b) (relating to special limitations for self-employed individuals) shall not apply to amounts allowed as a deduction under subdivision (c).

SEC. 19. Section 17736 is added to the Revenue and Taxation Code, to read:

17736. The provisions of Section 642(c)(2) of the Internal Revenue Code are modified for purposes of this part by substituting "December 31, 1970" for "October 9, 1969" throughout that paragraph.

SEC. 19.5. Section 18152 of the Revenue and Taxation Code is amended to read:

18152. (a) Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) whichever of the following is smallest:

(1) The taxable income for the taxable year reduced (but not below zero) by zero bracket amount, or

(2) One thousand dollars ($1,000).

(b) In the case of a husband or wife who files a separate return, the amount specified in paragraph (2) of subdivision (a) shall be five hundred dollars ($500) in lieu of one thousand dollars ($1,000).

(c) For purposes of subdivision (a), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets.

(d) If a taxpayer has a net capital loss for any taxable year the excess of such net capital loss shall be a capital loss in the succeeding taxable year.

SEC. 20. Section 18171 of the Revenue and Taxation Code is amended to read:

18171. The provisions of Section 1250(b) of the Internal Revenue Code, relating to additional depreciation, shall be modified as follows:

(a) "Depreciation adjustments," as defined in Section 1250(b) (3), shall not include the following:

(1) For taxable years beginning on or after January 1, 1983, amortization under Section 17251 or under Section 188 of the Internal Revenue Code.

(2) For taxable years beginning prior to January 1, 1983, amortization under former Section 17226, relating to pollution control facilities, or former Section 17227, relating to trademarks.

(b) "Additional depreciation," as defined in Section 1250(b) (4) of the Internal Revenue Code, shall include the following:

(1) For taxable years beginning on or after January 1, 1983, amortization under Section 167(k) of the Internal Revenue Code.

(2) For taxable years beginning before January 1, 1983, amortization under former Section 17211.7, relating to low-income rental housing, or former Section 17228.5, relating to certified historic structures.

SEC. 21. Section 18171.5 is added to the Revenue and Taxation Code, to read:

18171.5. The provisions of Section 1250(a) of the Internal Revenue Code are modified for purposes of this part as follows:

(a) The date "December 31, 1970" shall be substituted for "July 24, 1969," and "December 31, 1969."

(b) The date "January 1, 1971" shall be substituted for "January 1, 1970."

(c) The date "December 31, 1976" shall be substituted for "December 31, 1975."

(d) The date "January 1, 1977" shall be substituted for "January 1, 1976."

SEC. 22. Section 18176 is added to the Revenue and Taxation Code, to read:

18176. Section 1256(a) (3) of the Internal Revenue Code, relating to regulated futures contracts marked to market, shall be modified as follows:

(a) Forty percent of the gain or loss shall be treated as gain from an asset held not more than one year.

(b) Sixty percent of the gain or loss shall be treated as gain from an asset held more than five years.

SEC. 23. Section 18244 of the Revenue and Taxation Code is amended to read:

18244. (a) This article shall apply to the taxable year only if the taxpayer chooses to have the benefits of this article for such taxable year. Such choice may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this part for the taxable year.

(b) If the taxpayer chooses the benefits of this article for the taxable year, subdivision (b) of Section 17085 (relating to limitation of tax in case of certain distributions with respect to contributions by self-employed individuals) shall not apply to him for such year.

(c) (1) Paragraph (2) of this subdivision shall apply in the case of any individual who was married for any base period year or the computation year; except that such paragraphs shall not apply in respect of a base period year if—

(A) Such individual and his spouse make a joint return for the computation year, and

(B) Such individual was not married to any other spouse for such base period year.

(2) For purposes of this article, the base period income of an individual for any base period year shall not be less than 50 percent of the base period income which would result from combining his income and deductions for such year—

(A) With the income and deductions for such year of the individual who is his spouse for the computation year, or

(B) If greater, with the income and deductions for such year of the individual who was his spouse for such base period year.

(3) For purposes of this subdivision, Section 143 of the Internal Revenue Code shall apply in determining whether an individual is married for any taxable year.

(d) In the case of joint return, the three thousand dollars ($3,000) figure contained in Section 18241 shall be applied to the aggregate averageable income.

(e) (1) Section 72(m) of the Internal Revenue Code (relating to penalties applicable to certain amounts received by owner-employees) shall be applied as if this article had not been enacted.

(2) Except as otherwise provided in this article, the order and manner in which items of income or limitations on tax shall be taken

into account in computing the tax imposed by this part on the income of any eligible individual to whom Section 18241 applies for any computation year shall be determined under regulations prescribed by the Franchise Tax Board.

(f) In the case of any computation year or base period year which is a short taxable year, this article shall be applied in the manner provided in regulations prescribed by the Franchise Tax Board.

SEC. 24. Section 18411 of the Revenue and Taxation Code is amended to read:

18411. For the purpose of this part, the term "net income" means gross income computed under this part, less the deductions allowed by this part, other than the deductions allowed by Chapter 9.

SEC. 24.3. Section 18513 of the Revenue and Taxation Code, as added by Chapter 1278 of the Statutes of 1983, is amended and renumbered to read:

18533. The provisions of this article shall be applicable to taxes paid and refunds payable for the 1983 tax year and taxable years thereafter.

SEC. 24.5. Section 18803.5 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 18836 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 19404 of the Revenue and Taxation Code is amended to read:

19404. Any action or prosecution under this chapter shall be instituted within six years after commission of the offense.

SEC. 26.1. Section 23186 of the Revenue and Taxation Code is amended to read:

23186. (a) Except as otherwise provided in subdivisions (b), (c), or (d), the rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income, allocable to this state, of every corporation taxable under Section 23151 or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this state as franchise taxes according to or measured by such net income, and required to be paid to this state or its political subdivisions by such corporations as personal property taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 13 percent. The percentage of the net income of every corporation taxable under Section 23151, or subdivision (c) of Section 23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, required to be paid to this state or its political subdivisions in personal property taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes, less 9 percent thereof, bears to the total amount of net income of such

corporations allocable to California, increased by the amount of such personal property taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes required to be paid by such corporation to this state or its political subdivisions during the preceding calendar year or fiscal year ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes exceed such net loss allocable to California.

(b) For income years ending in 1980, the rate of tax on banks and financial corporations shall be 11.6 percent. For income years ending in 1981 and thereafter, the rate shall be the rate prescribed in subdivision (d) of Section 23151, plus 2.0 percent.

(c) For income years ending in 1982, 1983, and 1984, the rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income, allocable to this state, of every corporation taxable under Section 23151 or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this state as franchise taxes according to or measured by such net income, and required to be paid to this state or its political subdivisions by such corporations as personal property taxes and business license taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 12 percent. The percentage of the net income of every corporation taxable under Section 23151, or subdivision (c) of Section 23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, required to be paid to this state or its political subdivisions in personal property taxes and business license taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes and business license taxes, less the rate prescribed in subdivision (e) or (f) of Section 23151, whichever is the applicable percent thereof, bears to the total amount of net income of such corporations allocable to California, increased by the amount of such personal property taxes and business license taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes and business license taxes required to be paid by such corporation to this state or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes and business license taxes exceed such net loss allocable to California.

(d) (1) For income years ending in 1985 and thereafter, the rate of tax on banks and financial corporations shall be the sum of—

(A) The rate of general corporations provided by Section 23151 for the next preceding calendar year, or fiscal years ended during

that calendar year, and

(B) The ratio (expressed as a percentage) of:

(i) The total personal property taxes and business license taxes required to be paid for the next preceding calendar year, or fiscal years ended during that calendar year, to this state or a political subdivision of this state, by corporations taxable under Section 23151 or subdivision (d) of Section 23151.1, other than public utilities as defined in the Public Utilities Act, plus the tax benefit attributed to those items, and

(ii) The total net income of those corporations for that year, determined without regard to deductions attributable to carryover or carryback of net operating losses, plus the total personal property taxes and business license taxes required to be paid for the next preceding calendar year, or fiscal years ended during that calendar year, to this state or a political subdivision of this state, by corporations taxable under Section 23151 or subdivision (d) of Section 23151.1, other than public utilities, as defined in the Public Utilities Act.

(2) If any corporation described by subparagraph (B) of paragraph (1) sustains a net loss allocable to California, that loss shall be disregarded in the determination of total net income under clause (ii) of subparagraph (B) of paragraph (1) and the personal property taxes and business license taxes required to be paid by that corporation to this state or its political subdivisions during the preceding calendar year or fiscal years ended during that calendar year shall be considered for the purpose of determining that ratio only to the extent which personal property taxes and business license taxes exceed that net loss allocable to California.

(e) For income years ending in 1982 and thereafter, for the purposes of subdivision (c), the total amount of personal property taxes and business license taxes required to be paid during the income year shall be based on a statistical sample by the Franchise Tax Board, consisting of all of the following:

(1) Every corporation with a net income of more than five million dollars ($5,000,000) for the income year.

(2) Every corporation required to pay one hundred thousand dollars ($100,000) or more of personal property tax or business license tax, or a combination thereof, during the income year.

(3) Two percent or more of all other corporations on a random basis.

For the purposes of this subdivision, corporation means a corporation taxable under Section 23151, or subdivision (c) of Section 23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act.

(f) For the purpose of verifying local business license taxes reported by corporations taxable under Section 23151, or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public

Utilities Act, the Franchise Tax Board is authorized to receive source information listings directly from the cities as to the amount of business license taxes paid and the date of payment for each taxpayer subject to the business license tax, notwithstanding any city ordinance prohibiting that disclosure.

(g) The Franchise Tax Board shall redetermine the rate of tax for banks and corporations determined in 1979 (and 1980 if applicable), taking into account additional local tax billings prior to January 1, 1982, resulting from the final court decision not to uphold the application of the tax rate provided by Article XIII A of the Constitution to the 1978–79 unsecured roll. Any additional taxes resulting from the redetermined rate will be due and payable within 30 days of mailing of a notice and demand by the Franchise Tax Board. In making the redetermination, the Franchise Tax Board shall utilize the statistical sampling method provided in subdivision (e), except that business license taxes shall not be taken into account.

SEC. 26.2. Section 23251 of the Revenue and Taxation Code is amended to read:

23251. The term "reorganization," as used in this chapter, shall have the same meaning as that term is defined in Section 368 of the Internal Revenue Code.

SEC. 26.3. Section 23252 of the Revenue and Taxation Code is repealed.

SEC. 26.4. Section 23253 of the Revenue and Taxation Code is amended to read:

23253. Section 381 (b) of the Internal Revenue Code, relating to operating rules, shall apply in determining the close of the income year. If a short period year is required by use of Section 381 (b) of the Internal Revenue Code, the transferor's short year tax shall be computed using the provisions of Section 23151.1 for general corporations or Section 23181 for banks and financial corporations.

SEC. 26.5. Section 23253a of the Revenue and Taxation Code is repealed.

SEC. 26.6. Section 23253b of the Revenue and Taxation Code is repealed.

SEC. 26.7. Section 23253c of the Revenue and Taxation Code is repealed.

SEC. 26.8. Section 23254 of the Revenue and Taxation Code is repealed.

SEC. 26.9. Section 23400 of the Revenue and Taxation Code is amended to read:

23400. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year (as defined in Section 23041), with respect to the income of every taxpayer under this part, a tax equal to 2.5 percent of the amount (if any) by which the sum of the items of tax preference are in excess of thirty thousand dollars ($30,000).

(b) With respect to taxpayers subject to Article 4 of Chapter 2 (commencing with Section 23101) of this part, the provisions of Arti-

cles 4 to 9, inclusive, shall apply to the tax imposed by this section except that Section 23221 shall not apply.

(c) For the purposes of computing the tax on items of tax preference for taxable years in which a taxpayer commenced doing business, dissolves, withdraws, or ceases doing business, the provisions of Sections 23151, 23151.1, 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204, inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, 23504 and 25401 shall be applied with due regard for the rate and tax preference amounts prescribed by this chapter.

SEC. 26.10. Section 23405 is added to the Revenue and Taxation Code, to read:

23405. (a) If, for any income year, a corporation—

(1) Has a net operating loss, any portion of which (under Section 24416) remains as a net operating loss carryover to a succeeding income year, and

(2) Has items of tax preference, then an amount of tax on those preference items shall be computed for the income year, but the tax imposed by Section 23400 shall be deferred to the extent of the ratio of net operating loss carryover to total items of tax preference not to exceed 100 percent.

(b) In any income year in which any portion of the net operating loss attributable to the amount described in paragraph (2) of subdivision (a) reduces net income, the tax deferred by paragraph (2) of subdivision (a) shall be treated as a tax liability imposed in proportion to the ratio of preference items so utilized to the total preference items contained in the net operating loss carryover.

(c) If any amount of the net operating loss carryover described in paragraph (1) of subdivision (a) is not attributable to the amount described in paragraph (2) of subdivision (a), that amount shall be applied to reduce net income before any other amount.

SEC. 27. Section 23772 of the Revenue and Taxation Code is amended to read:

23772. (a) For the purposes of this part—

(1) Except as provided in paragraph (2) every organization exempt from taxation under Section 23701 and every trust treated as a private foundation because of Section 4947(a)(1) of the Internal Revenue Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the laws under this part as the Franchise Tax Board may by rules or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Franchise Tax Board may from time to time prescribe. The return shall be filed on or before the 15th day of the fifth full calendar month following the close of the income year.

(2) Exceptions from filing—

(A) Mandatory exceptions—Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or association of churches,

(ii) Any organization (other than a private foundation as defined in Section 23709), the gross receipts of which in each taxable year are normally not more than ten thousand dollars ($10,000), or

(iii) The exclusively religious activities of any religious order,

(B) Discretionary exceptions—The Franchise Tax Board may permit the filing of a simplified return for organizations based on either gross receipts or total assets or both gross receipts and total assets, or may permit the filing of an information statement (without fee), or may permit the filing of a group return for incorporated or unincorporated branches of a state or national organization where it determines that an information return is not necessary to the efficient administration of this part.

(3) An organization that is required to file an annual information return shall pay a filing fee of ten dollars ($10) on or before the due date for filing the annual information return (determined with regard to any extension of time for filing the return) required by this section. In case of failure to pay the fee on or before such due date unless it is shown that such failure is due to reasonable cause, the filing fee shall be twenty-five dollars ($25). All collection remedies provided in Chapter 23 (commencing with Section 26131) of this part shall be applicable to collection of the filing fee. However, the filing fee shall not apply to the organization described in paragraph (4).

(4) Paragraph (3) shall not apply to: (A) a religious organization exempt under Section 23701d; (B) an educational organization exempt under Section 23701d, if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; (C) a charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under Section 23701d, if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public; (D) an organization exempt under Section 23701d, if such organization is operated, supervised, or controlled by or in connection with a religious organization described in subparagraph (A).

(b) Every organization described in Section 23701d which is subject to the requirements of subdivision (a) shall furnish annually information, at such time and in such manner as the Franchise Tax Board may by rules or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during

the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation manager (within the meaning of Section 4946 of the Internal Revenue Code) and highly compensated employees,

(7) The compensation and other payments made during the year to each individual described in paragraph (6), and

(8) In the case of an organization with respect to which an election under Section 23704.5 is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) The lobbying expenditures (as defined in Section 23740(c)(1)).

(B) The lobbying nontaxable amount (as defined in Section 23740(c)(2)).

(C) The grassroots expenditures (as defined in Section 23740(c)(3)).

(D) The grassroots nontaxable amount (as defined in Section 23740(c)(4)). For purposes of this paragraph, if Section 23740(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) In addition to the above annual return any organization which is required to file an annual report under Section 6056 of the Internal Revenue Code will furnish a copy of the report to the Franchise Tax Board at the time the annual return is due.

(d) For the purposes of this part—

(1) In the case of a failure to file a return required under this section on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the exempt organization or trust failing so to file, five dollars ($5) for each month or part thereof during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed forty dollars ($40).

(2) The Franchise Tax Board may make written demand upon a private foundation failing to file under paragraph (1) of this subdivision or subdivision (c) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing so to file, in addition to the penalty prescribed in paragraph (1), a penalty of five dollars ($5) each month or part thereof after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed twenty-five dollars ($25). If more than one person is liable under this paragraph for a failure to file, all such persons shall be

jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(e) The reporting requirements and penalties shall be applicable for income years beginning after December 31, 1970, except that the provisions of subparagraph (B) of paragraph (2) of subdivision (a) shall apply to income years ending after December 31, 1970.

SEC. 27.1. Section 24342 of the Revenue and Taxation Code, as added by Chapter 45 of the Statutes of 1984, is repealed.

SEC. 27.2. Section 24342 of the Revenue and Taxation Code is amended to read:

24342. (a) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of small business stock (as defined in Section 18162.5), which is issued and purchased after the effective date of this section and sold or exchanged on or after January 1, 1985, shall be taken into account in computing net income:

(1) One hundred percent if the small business stock has been held for not more than one year.

(2) Sixty-five percent if the small business stock has been held for more than one year but not more than three years.

(3) Zero percent if the small business stock has been held for more than three years, and if at the time of sale, the fair market value (as defined in Section 110) of land owned or controlled by the corporation does not exceed 25 percent of the fair market value of the corporation (as reflected in the price at which the stock was sold).

(b) The provisions of this section shall be applied in the computation of taxes for income years beginning on or after January 1, 1985, but shall have no application to small business stock which is issued or purchased on or after January 1, 1990.

SEC. 27.3. Section 24342.5 of the Revenue and Taxation Code, as added by Chapter 45 of the Statutes of 1984, is repealed.

SEC. 27.4. Section 24342.5 of the Revenue and Taxation Code, as added by Chapter 44 of the Statutes of 1984, is repealed.

SEC. 27.5. Section 24343.9 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 24354.1 of the Revenue and Taxation Code is amended to read:

24354.1. (a) Except as provided in subdivisions (b) and (c) of this section, in the case of property of the type defined in Section 1250(c) of the Internal Revenue Code, subdivision (b) of Section 24349 shall not apply and the term "reasonable allowance" as used in subdivision (a) of Section 24349 shall include an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method,

(2) The declining balance method, using a rate not exceeding 150 percent of the rate which would have been used had the

annual allowance been computed under the method described in paragraph (1), or

(3) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a) of Section 24349 except where allowable solely by reason of paragraph (2), (3), or (4) of subdivision (b) of Section 24349.

(b) (1) Subdivision (a) of this section shall not apply, and subdivision (b) of Section 24349 shall apply in any income year, to a building or structure—

(A) Which is residential rental property located within the United States or any of its possessions, or located within a foreign country if a method of depreciation for such property comparable to the method provided in paragraph (2) or (3) of subdivision (b) of Section 24349 is provided by the laws of such country and

(B) The original use of which commences with the taxpayer. In the case of residential rental property located within a foreign country, the original use of which commences with the taxpayer, if the allowance for depreciation provided under the laws of such country for such property is greater than that provided under subdivision (a) of this section, but less than that provided under subdivision (b) of Section 24349, the allowance for depreciation under subdivision (b) of Section 24349 shall be limited to the amount provided under the laws of such country.

(2) For purposes of paragraph (1), a building or structure shall be considered to be residential rental property for any income year only if 80 percent or more of the gross rental income from such building or structure for such year is rental income from dwelling units (within the meaning of paragraph (3) of subdivision (c) of Section 24354.2. For purposes of the preceding sentence, if any portion of such building or structure is occupied by the taxpayer, the gross rental income from such building or structure shall include the rental value of the portion so occupied.

(3) Any change in the computation of the allowance for depreciation for any income year, permitted or required by reason of the application of paragraph (1), shall not be considered a change in a method of accounting.

(c) Subdivision (a) of this section shall not apply, and subdivision (b) of Section 24349 shall apply, in the case of property—

(1) The construction, reconstruction, or erection of which was begun before January 1, 1971, or

(2) For which a written contract entered into before January 1, 1971, with respect to any part of the construction, reconstruction, or

erection or for the permanent financing thereof, was on January 1, 1971, and at all times thereafter, binding on the taxpayer.

(d) Except as provided in subdivision (e), in the case of property of the type defined in Section 1250(c) of the Internal Revenue Code acquired after December 31, 1970, the original use of which does not commence with the taxpayer, the allowance for depreciation under Sections 24349 to 24354.2, inclusive, shall be limited to an amount computed under—

(1) The straight line method, or

(2) Any other method determined by the Franchise Tax Board to result in a reasonable allowance under subdivision (a) of Section 24349, not including—

(A) Any declining balance method,

(B) The sum of the years-digits method, or

(C) Any other method allowable solely by reason of the application of paragraph (4) of subdivision (b) of Section 24349 or paragraph (3) of subdivision (a) of this section.

(e) In the case of property of the type defined in Section 1250(c) of the Internal Revenue Code which is residential rental property (as defined in paragraph (2) of subdivision (b)) acquired after December 31, 1970, having a useful life of 20 years or more, the original use of which does not commence with the taxpayer, the allowance for depreciation under Sections 24349 to 24354.2, inclusive, shall be limited to an amount computed under—

(1) The straight line method,

(2) The declining balance method, using a rate not exceeding 125 percent of the rate which would have been used had the annual allowance been computed under the method described in paragraph (1), or

(3) Any other method determined by the Franchise Tax Board to result in a reasonable allowance under subdivision (a) of Section 24349, not including—

(A) The sum of the years-digits method,

(B) Any declining balance method using a rate in excess of the rate permitted under paragraph (2), or

(C) Any other method allowable solely by reason of the application of paragraph (4) of subdivision (b) of Section 24349 or paragraph (3) of subdivision (a) of this section.

(f) (1) For purposes of subdivisions (b), (d), and (e), if property of the type defined in Section 1250(c) of the Internal Revenue Code which is not property described in subdivision (a) of Section 24349 when its original use commences, becomes property described in subdivision (a) of Section 24349 after December 31, 1970, such property shall not be treated as property the original use of which commences with the taxpayer.

(2) Subdivisions (d) and (e) shall not apply in the case of property of the type defined in Section 1250(c) of the Internal Revenue Code, acquired after December 31, 1970, pursuant to a written contract for the acquisition of such property or for the permanent financing

thereof, which was, on December 31, 1970, and at all times thereafter, binding on the taxpayer.

(g) This section shall not apply to public utility property which means property used predominantly in the trade or business of the furnishing or sale of—

(1) Electrical energy, water, or sewage disposal services,

(2) Gas or steam through a local distribution system,

(3) Telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

(4) Transportation of gas or steam by pipeline,

if the rates for such furnishing or sale, as the case may be, have been established or approved by a state or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any state or political subdivision thereof.

SEC. 29. Section 24357.5 of the Revenue and Taxation Code is amended to read:

24357.5. No deduction shall be allowed under Section 24357 for a contribution to or for the use of an organization or trust described in Section 4948(c)(4) of the Internal Revenue Code.

SEC. 30. Section 24416 is added to the Revenue and Taxation Code, to read:

24416. A net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) The deduction shall be allowed only to a "qualified taxpayer" as provided by Section 24417.

(b) Net operating losses attributable to years beginning before January 1, 1984, shall not be allowed.

(c) Net operating loss carrybacks shall not be allowed.

(d) The provisions of Section 172(b)(1)(E), (H), and (J) of the Internal Revenue Code shall not apply. To the extent applicable to California law, net operating losses attributable to entities with losses described by Section 172(b)(1)(J) shall be applied in accordance with Section 172(b)(1)(A) and (B) of the Internal Revenue Code.

(e) Corporations whose income is subject to the provisions of Sections 25101 or 25101.15 shall make the computations required by Section 25120.

SEC. 30.1. Section 24417 is added to the Revenue and Taxation Code, to read:

24417. The term "qualified taxpayer" as used in Section 24416 means any one of the following:

(a) A taxpayer engaged in a new small business.

(1) A net operating loss of a new small business shall not be a net operating loss carryback to any income year and shall be a net operating loss carryover to each of the 15 income years following the in-

come year of the loss.

(A) A net operating loss may be carried over only by the corporation incurring the net operating loss.

(B) A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business.

(C) The total amount of net operating loss a new small business may carry over pursuant to Section 24416 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all income years.

(2) For purposes of this subdivision, the definition of "small business" established by the Department of General Services shall apply, with the following modifications:

(A) A taxpayer shall qualify as a "small business" if the gross receipts for the initial year of operation do not exceed one-third of the maximum receipts specified in Sections 1896(a) and 1896(m) (1) (B) of subchapter 8 of Title 2 of the California Administrative Code for the applicable industry group. If the maximum receipts specified are modified at any time during the income year, the amount stated at the end of the income year shall apply.

(B) Where the initial calendar year of operation is less than 12 months, gross receipts for that year shall be annualized for purposes of applying subparagraph (A).

(C) The taxpayer shall bear the burden of furnishing all information in support of a claim that it qualifies as a new "small business" as defined in this subdivision.

(3) The term "new small business" does not include any of the following:

(A) A corporation which, for tax purposes only, liquidates its assets in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the corporation under a new name.

(B) A corporation which is part of a controlled group, as defined by Section 1563 of the Internal Revenue Code. However, for purposes of this subparagraph, where the term "80 percent" is used in Section 1563 of the Internal Revenue Code, the term "50 percent" shall be substituted in lieu of "80 percent."

(C) A corporation which is controlled by another corporation, and whose affiliation with the controlling corporation does not constitute a small business. For purposes of this subparagraph, "controlled" means the ownership of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(5) For purposes of this subdivision, "net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to a new small business.

(b) A taxpayer engaged in the conduct of a qualified business

within a program area (as defined in Section 7082 of the Government Code).

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the three income years following the income year of loss.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the three income years following the income year of the loss. Subdivision (e) of Section 24416 and Section 172(b) (1) (F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(3) In determining the amount of the net operating loss deduction of any taxpayer under this subdivision, there shall be disregarded the net operating loss of that taxpayer for any income year for which the taxpayer is an electing small business corporation under Subchapter S of the Internal Revenue Code.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(c) A taxpayer who commences the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) (A) A net operating loss shall not be a net operating loss carryback to any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five income years following the income year of the loss. Subdivision (e) of Section 24416 and Section 172(B)(1)(F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to the business activities of the taxpayer within the enterprize zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(3) In determining the amount of the net operating loss deduction of any taxpayer under this subdivision, there shall be disregarded the net operating loss of that taxpayer for any income year for which the taxpayer is an electing small business corporation under Subchapter S of the Internal Revenue Code.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to Januay 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(d) A taxpayer who qualifies as a "qualified taxpayer" shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account the election required by subdivision (e) and shall be consistent with that election.

(e) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in an income year, the taxpayer shall elect which subdivision of this section is to apply to the taxpayer. The election is to be made in a statement attached to the original return, timely filed, for the year the net operating loss is incurred and shall be irrevocable.

SEC. 30.5. Section 24417 is added to the Revenue and Taxation Code, to read:

24417. The term "qualified taxpayer" as used in Section 24416 means any one of the following:

(a) A taxpayer engaged in a new small business.

(1) A net operating loss of a new small business shall not be a net operating loss carryback to any income year and shall be a net operating loss carryover to each of the 15 income years following the income year of the loss.

(A) A net operating loss may be carried over only by the corporation incurring the net operating loss.

(B) A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business.

(C) The total amount of net operating loss a new small business may carry over pursuant to Section 24416 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all income years.

(2) For purposes of this subdivision, the definition of "small business" established by the Department of General Services shall apply, with the following modifications:

(A) A taxpayer shall qualify as a "small business" if the gross receipts for the initial year of operation do not exceed one-third of the maximum receipts specified in Sections 1896(a) and 1896(m) (1) (B) of subchapter 8 of Title 2 of the California Administrative Code for the applicable industry group. If the maximum receipts specified are modified at any time during the income year, the amount stated at the end of the income year shall apply.

(B) Where the initial calendar year of operation is less than 12 months, gross receipts for that year shall be annualized for purposes of applying subparagraph (A).

(C) The taxpayer shall bear the burden of furnishing all information in support of a claim that it qualifies as a new "small business" as defined in this subdivision.

(3) The term "new small business" does not include any of the following:

(A) A corporation which, for tax purposes only, liquidates its assets in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the corporation under a new name.

(B) A corporation which is part of a controlled group, as defined by Section 1563 of the Internal Revenue Code. However, for purposes of this subparagraph, where the term "80 percent" is used in Section 1563 of the Internal Revenue Code, the term "50 percent" shall be substituted in lieu of "80 percent."

(C) A corporation which is controlled by another corporation, and whose affiliation with the controlling corporation does not constitute a small business. For purposes of this subparagraph, "controlled" means the ownership of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(5) For purposes of this subdivision, "net operating loss" means

the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to a new small business.

(b) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the three income years following the income year of loss.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the three income years following the income year of the loss. Subdivision (e) of Section 24416 and Section 172(b)(1)(F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(3) In determining the amount of the net operating loss deduction of any taxpayer under this subdivision, there shall be disregarded the net operating loss of that taxpayer for any income year for which the taxpayer is an electing small business corporation under Subchapter S of the Internal Revenue Code.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(c) A taxpayer who commences the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) (A) A net operating loss shall not be a net operating loss carryback to any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following income year that ends before the

expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five income years following the income year of the loss. Subdivision (e) of Section 24416 and Section 172(B)(1)(F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(3) In determining the amount of the net operating loss deduction of any taxpayer under this subdivision, there shall be disregarded the net operating loss of that taxpayer for any income year for which the taxpayer is an electing small business corporation under Subchapter S of the Internal Revenue Code.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to Januay 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(d) A taxpayer engaged in the business of farming in this state.

(1) A net operating loss shall not be a net operating loss carryback to any income year and shall be a net operating loss carryover to each of the 15 income years following the income year of the loss.

(A) A net operating loss may be carried over only by the corporation incurring the net operating loss.

(B) The total amount of net operating loss that a taxpayer may carryover pursuant to Section 24416 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of fifty thousand dollars ($50,000) for any one income year. The net operating loss deductions claimed by any taxpayer pursuant to Section 24416 and incurred between any income year beginning after December 31, 1983, through any income year ending December 31, 1993, shall not exceed an aggregate of two hundred fifty thousand dollars ($250,000). In the income years beginning after December 31, 1993, the net operating loss deductions claimed by any taxpayer pursuant to Section 24416 and incurred for any income year beginning after Decem-

ber 31, 1983, shall not exceed an aggregate of five hundred thousand dollars ($500,000).

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributed to the business of farming.

(B) A net operating loss carryover shall be a deduction only against income attributed to the business of farming.

(C) The term "business of farming" means that at least two-thirds of the taxpayer's gross income from all sources for three out of the immediately preceding five years is from farming. The term "business of farming" shall have the same meaning as the term "carrying on of the trade or business of farming" as that term is used in Section 17064.7.

(D) The term "in this state" means that the sum of the taxpayer's property and payroll factors (computed pursuant to Chapter 17 (commencing with Section 25101) of Part 11), divided by two, is at least two-thirds.

(3) Where 50 percent or more of the stock of a corporation engaged in the business of farming is owned by a taxpayer (including the taxpayer's spouse or minor child) engaged in the business of farming, the aggregate net farm operating loss deductions of the taxpayer (including the taxpayer's spouse or minor child) and the corporation cannot exceed the amounts specified in subparagraph (B) of paragraph (1).

(4) This subdivision shall not apply to any taxpayer engaged in the business of farming which, principally for the purpose of avoiding tax, liquidates assets, in whole or in part, and then subsequently reorganizes that portion of the business under a new name.

(5) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(e) A taxpayer who qualifies as a "qualified taxpayer" shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account the election required by subdivision (f) and shall be consistent with that election.

(f) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in an income year, the taxpayer shall elect which subdivision of this section is to apply to the taxpayer. The election is to be made in a statement attached to the original return, timely filed, for the year the net operating loss is incurred and shall be irrevocable.

SEC. 31. Section 24457 of the Revenue and Taxation Code is amended to read:

24457. (a) (1) For purposes of Section 24455, if:

(A) One or more persons are in control of each of two corporations, and

(B) In return for property, one of the corporations acquires stock in the other corporation from the person (or persons) so in control,

then (unless paragraph (2) applies) such property shall be treated as a distribution in redemption of the stock of the corporation acquiring such stock. In any such case, the stock so acquired shall be treated as having been transferred by the person from whom acquired, and as having been received by the corporation acquiring it, as a contribution to the capital of such corporation.

(2) For purposes of Section 24455, if:

(A) In return for property, one corporation acquires from a shareholder of another corporation stock in such other corporation, and

(B) The issuing corporation controls the acquiring corporation, then such property shall be treated as a distribution in redemption of the stock of the issuing corporation.

(b) (1) In the case of any acquisition of stock to which subdivision (a) of this section applies, determinations as to whether the acquisition is, by reason of subdivision (b) of Section 24455, to be treated as a distribution in part or full payment in exchange for the stock shall be made by reference to the stock of the issuing corporation. In applying subdivision (a) of Section 24497 (relating to constructive ownership of stock) with respect to subdivision (b) of Section 24455 for purposes of this paragraph, paragraph (2) of subdivision (a) of Section 24497 shall be applied without regard to the 50 percent limitation contained therein.

(2) (A) In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subdivision (a) of this section applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the issuing corporation to the acquiring corporation and immediately thereafter distributed by the acquiring corporation.

(B) In the case of any acquisition of stock to which paragraph (2) of subdivision (a) applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the acquiring corporation to the issuing corporation and immediately thereafter distributed by the issuing corporation.

(3) (A) Except as otherwise provided in this paragraph, subdivision (a) (and not Chapter 10) shall apply to any property received in a distribution described in subdivision (a).

(B) (i) Subdivision (a) shall not apply to any liability—

(I) Assumed by the acquiring corporation, or

(II) To which the stock is subject, if that liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term "stock" means stock referred to in subparagraph (B) of paragraph (1) or subparagraph (A) of paragraph (2) of subdivision (a).

(ii) For purposes of clause (i), an extension, renewal, or refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting those requirements.

(C) If—

(i) Pursuant to a plan, control of a bank is acquired and within two years after the date on which such control is acquired, stock constituting control of that bank is transferred to a BHC in connection with its formation,

(ii) Incident to the formation of the BHC there is a distribution of property described in subdivision (a), and

(iii) The shareholders of the BHC who receive distributions of that property do not have control of that BHC,

then, subdivision (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of that BHC.

(D) For purposes of subparagraph (C) and this subparagraph—

(i) The term "qualified minority shareholder" means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subdivision (c) shall apply.

(ii) The term "BHC" means a bank holding company (within the meaning of Section 2(a) of the federal Bank Holding Company Act of 1956).

(iii) In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply.

(c) (1) For purposes of this section, control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote, or at least 50 percent of the total value of shares of all classes of stock. If a person (or persons) is in control (within the meaning of the preceding sentence) of a corporation which in turn owns at least 50 percent of the total combined voting power of all stock entitled to vote of another corporation, or owns at least 50 percent of the total value of the shares of all classes of stock of another corporation, then such person (or persons) shall be treated as in control of such other corporation.

(2) For purposes of paragraph (1) of subdivision (a)—

(A) Where one or more persons in control of the issuing corporation transfers stock of that corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether that person is or those persons are in control of the acquiring corporation.

(B) The term "inventory amount" means, in the case of inventory assets distributed during a taxable year, the amount of those inventory assets determined as if the taxable year closed at the time of that distribution.

(3) Subdivision (a) of Section 24497 (relating to the constructive ownership of stock) shall apply for purposes of determining control under this section. For purposes of the preceding sentence, paragraph (2) of subdivision (a) of Section 24497 shall be applied without

regard to the 50 percent limitation contained therein.

SEC. 32. Section 24465 of the Revenue and Taxation Code is amended to read:

24465. Section 24464 shall not apply—

(a) (1) If the disposition—

(A) Is not a redemption;

(B) Is not, directly or indirectly, to a person the ownership of whose stock would (under subdivision (a) of Section 24497) be attributable to the shareholder; and

(C) Terminates the entire stock interest of the shareholder in the corporation (and for purposes of this subparagraph, subdivision (a) of Section 24497 shall apply).

(2) If the disposition is a redemption and paragraph (3) or (4) of subdivision (b) of Section 24455 applies.

(b) If the Section 24464 stock is redeemed in a distribution in a complete liquidation to which Section 24501 and following apply.

(c) To the extent that, under any provision of this part, gain or loss to the shareholder is not recognized with respect to the disposition of the Section 24464 stock.

(d) If it is established to the satisfaction of the Franchise Tax Board—

(1) That the distribution, and the disposition or redemption; or

(2) In the case of a prior or simultaneous disposition (or redemption) of the stock with respect to which the Section 24464 stock disposed of (or redeemed) was issued, that the disposition (or redemption) of the Section 24464 stock, was not in pursuance of a plan having as one of its principal purposes the avoidance of tax under this part.

SEC. 33. Section 24483.5 of the Revenue and Taxation Code is amended to read:

24483.5. (a) (1) If—

(A) A corporation distributes property (other than an obligation of such corporation) to a shareholder in a redemption (to which Article 1 (commencing with Section 24451) applies) of part or all of his stock in such corporation, and

(B) The fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation), then a gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. Sections 24482 and 24483 shall not apply to any distribution to which this section applies.

(2) Paragraph (1) shall not apply to any of the following:

(A) A distribution to a corporate shareholder if the basis of the property distributed is determined under paragraph (3) of subdivision (b) of Section 24455.

(B) A distribution to which paragraph (4) of subdivision (b) of Section 24454 applies and which is made with respect to qualified stock.

(C) A distribution before December 1, 1974, of stock of a corpora-

tion substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in Section 23361) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the one-year period ending on the date of the distribution.

(D) A distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subdivision (c) are met with respect to the distribution.

(E) A distribution to the extent that Section 303 of the Internal Revenue Code (relating to distributions in redemption of stock to pay death taxes) applies to such distribution.

(F) A distribution by a corporation to which Section 23701m (relating to and including regulated investment companies) applies, if such distribution is in redemption of the stock upon the demand of the shareholder.

(b) (1) Except as to distributions described in paragraphs (2) and (3), this section and the amendments to paragraph (2) of subdivision (a) of Section 24452, subdivision (b) of Section 24454, and subdivision (c) of Section 24486 at the 1971 First Extraordinary Session of the Legislature shall apply with respect to distributions after December 31, 1970.

(2) A distribution by a corporation of property (held on December 1, 1969, by the distributing corporation or a corporation which was a wholly owned subsidiary of the distributing corporation on such date) in redemption of stock outstanding on November 30, 1969, which is redeemed and canceled before July 31, 1971, if—

(A) Such redemption is pursuant to a resolution adopted before November 1, 1969, by the board of directors authorizing the redemption of a specific amount of stock constituting more than 10 percent of the outstanding stock of the corporation at the time of the adoption of such resolution; and

(B) More than 40 percent of the stock authorized to be redeemed pursuant to such resolution was redeemed before December 30, 1969, and more than one-half of the stock so redeemed was redeemed with property other than money.

(3) A distribution of stock by a corporation organized prior to December 1, 1969, for the principal purpose of providing an equity participation plan for employees of the corporation whose stock is being distributed (hereinafter referred to as the "employer corporation") if—

(A) The stock being distributed was owned by the distributing corporation on November 30, 1969.

(B) The stock being redeemed was acquired before January 1, 1973, pursuant to such equity participation plan by the shareholder presenting such stock for redemption (or by a predecessor of such shareholder),

(C) The employment of the shareholder presenting the stock for redemption (or the predecessor of such shareholder) by the employ-

er corporation commenced before January 1, 1971,

(D) At least 90 percent in value of the assets of the distributing corporation on November 30, 1969, consisted of common stock of the employer corporation, and

(E) At least 50 percent of the outstanding voting stock of the employer corporation is owned by the distributing corporation at any time within the nine-year period ending one year before the date of such distribution.

(c) For purposes of subdivision (b) and this subdivision—

(1) (A) The term "qualified stock" means stock held by a person (other than a corporation) who at all times during the lesser of—

(i) The five-year period ending on the date of distribution, or

(ii) The period during which the distributing corporation (or a predecessor corporation) was in existence,

held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

(B) Section 24497 shall apply in determining ownership of stock under subparagraph (A); except that, in applying paragraph (1) of subdivision (a) of Section 24497, the term "family" includes any individual described in subdivision (d) of Section 24429 and any spouse of any such individual.

(2) (A) A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the "controlled corporation") meets the requirements of this paragraph if—

(i) That distribution is made with respect to qualified stock,

(ii) Substantially all of the assets of the controlled corporation consists of the assets of one or more qualified businesses,

(iii) No substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which Section 24521 applied or as a contribution to capital, within the five-year period ending on the date of the distribution, and

(iv) More than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

(B) For purposes of subparagraph (A)—

(i) The term "qualified business" means any trade or business which—

(I) Was actively conducted throughout the five-year period ending on the date of the distribution, and

(II) Was not acquired by any person within that period in a transaction in which gain or loss was recognized in whole or in part.

(ii) The term "nonbusiness asset" means any asset not used in the active conduct of a trade or business.

SEC. 33.5. Chapter 11.7 (commencing with Section 24591) is added to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 11.7. CARRYOVERS

24591. Section 381 of the Internal Revenue Code, relating to carryovers in certain corporate acquisitions, shall apply to the acquisition of assets by another corporation to the extent the corporate attributes are enumerated in Section 381 of the Internal Revenue Code.

24592. Section 382 of the Internal Revenue Code (as it read prior to amendment by P.L. 94-455), relating to special limitations on net operating loss carryovers, shall be applicable to the net operating loss carryover provided by Section 24416.

24593. Section 383 of the Internal Revenue Code (as it read prior to amendment by P.L. 94-455, but as amended by P.L. 95-30, P.L. 96-222, P.L. 96-223, and P.L. 97-34), relating to special limitations on carryover of unused credits, shall apply to Section 23601 credits (unused solar energy credit), Section 23601.5 credits (unused energy conservation credit), Section 23604 credits (unused pollution control equipment credit), Section 23605 credits (unused ridesharing credit), Section 23607 credits (unused solar pump credit) and Section 23606 credits (unused gifts of scientific property credit).

SEC. 34. Section 24602 of the Revenue and Taxation Code is amended to read:

24602. (a) For income years ending before January 1, 1984, then in the income year when paid, in an amount determined in accordance with Section 24601, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 401(a)(3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (22) of the Internal Revenue Code, and, if applicable, the requirements of Section 401(a)(9), (10), (17), and (18) and of Section 401(d) (other than paragraph (1)) of the Internal Revenue Code, and if refunds of premiums, if any, are applied within the current income year or next succeeding income year toward the purchase of such retirement annuities.

(b) For income years beginning after December 31, 1983, then in the income year when paid, in an amount determined in accordance with Section 24601, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of Section 401(a)(3), (4), (5), (6), (7), (8), (9), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (22) of the Internal Revenue Code, and, if applicable, the requirements of Section 401(a)(10) and of Section 401(d), and if refunds of premiums, if any, are applied within the current income year or next succeeding income year toward the purchase of such retirement annuities.

SEC. 35. Section 24603 of the Revenue and Taxation Code is amended to read:

24603. (a) In the income year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such income

year ends within or with an income year of the trust with respect to which the trust is exempt under Section 401 (a) of the Internal Revenue Code, in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the income year to all employees under the stock bonus or profit-sharing plan. If in any income year there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible shall be carried forward and be deductible when paid in the succeeding income years in order of time, but the amount so deductible under this sentence in any such succeeding income year shall not exceed 15 percent of the compensation otherwise paid or accrued during such succeeding income year to the beneficiaries under the plan, but the amount so deductible under this sentence in any one succeeding income year together with the amount so deductible under the first sentence of this subdivision shall not exceed 25 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. In addition, any amount paid into the trust in any income year in excess of the amount allowable with respect to such year under the preceding provisions of this subdivision shall be deductible in the succeeding income years in order of time, but the amount so deductible under this sentence in any one such succeeding income year together with the amount allowable under the first sentence of this subdivision shall not exceed 15 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subdivision, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarially as provided in Section 24601. If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subdivision.

(b) In the case of a profit-sharing plan, or a stock bonus plan in which contributions are determined with reference to profits, of a group of corporations which is an affiliated group within the meaning of Section 1504 of the Federal Internal Revenue Code of 1954, if any member of such affiliated group is prevented from making a contribution which it would otherwise have made under the plan, by reason of having no current or accumulated earnings or profits or because such earnings or profits are less than the contributions which it would otherwise have made, then so much of the contribution which such member was so prevented from making may be made, for the benefit of the employees of such member, by the other members of the group, to the extent of current or accumulated earnings or profits, except that such contribution by each such other member shall be limited, where the group does not file a combined report under Section 25101, to that proportion of its total current and ac-

cumulated earnings or profits remaining after adjustment for its contribution deductible without regard to this subdivision which the total prevented contribution bears to the total current and accumulated earnings or profits of all members of the group remaining after adjustment for all contributions deductible without regard to this subdivision. Contributions made under the preceding sentence shall be deductible under subdivision (a) by the employer making such contribution, and, for the purpose of determining amounts which may be carried forward and deducted under the second sentence of subdivision (a) in succeeding income years, shall be deemed to have been made by the employer on behalf of whose employees such contributions were made.

(c) The term "compensation otherwise paid or accrued during the taxable year to all employees" shall include any amount with respect to which an election under Section 415(c) (3) (C) of the Internal Revenue Code is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable.

SEC. 36. Section 24667 of the Revenue and Taxation Code is amended to read:

24667. (a) Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this part under the installment method.

(b) For purposes of this section—

(1) The term "installment sale" means a disposition of property where at least one payment is to be received after the close of the income year in which the disposition occurs.

(2) The term "installment sale" does not include—

(A) A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.

(B) A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the income year.

(c) For purposes of this section, the term "installment method" means a method under which the income recognized for any income year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(d) (1) Subdivision (a) shall not apply to any disposition if the taxpayer elects to have subdivision (a) not apply to such disposition.

(2) Except as otherwise provided, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this part for the income year in which the disposition occurs. Such an election shall be made in the manner prescribed by the Franchise Tax Board.

(3) An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Franchise Tax Board.

(e) (1) If—

(A) Any person disposes of property to a related person (hereinafter in this subdivision referred to as the "first disposition"), and

(B) Before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subdivision referred to as the "second disposition"),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

(2) (A) Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than two years after the date of the first disposition.

(B) The running of the two-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

(i) The holding of a put with respect to such property (or similar property),

(ii) The holding by another person of a right to acquire the property, or

(iii) A short sale or any other transaction.

(3) The amount treated for any income year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

(A) The lesser of—

(i) The total amount realized with respect to any second disposition of the property occurring before the close of the income year, or

(ii) The total contract price for the first disposition, over

(B) The sum of—

(i) The aggregate amount of payments received with respect to the first disposition before the close of such year, plus

(ii) The aggregate amount treated as received with respect to the first disposition for prior income years by reason of this subdivision.

(4) For purposes of this subdivision, if the second disposition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

(5) If paragraph (1) applies for any income year, payments received in subsequent income years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

(6) For purposes of this subdivision—

(A) Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

(B) A compulsory or involuntary conversion (within the meaning of Section 24944) and any transfer thereafter shall not be treated as

a second disposition if the first disposition occurred before the threat or imminence of the conversion.

(C) Any transfer after the earlier of—

(i) The death of the person making the first disposition, or

(ii) The death of the person acquiring the property in the first disposition,

and any transfer thereafter shall not be treated as a second disposition.

(7) This subdivision shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Franchise Tax Board that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of bank and corporation tax.

(8) The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subdivision) shall not expire before the day which is two years after the date on which the person making the first disposition furnishes (in such manner as the Franchise Tax Board may prescribe) a notice that there was a second disposition of the property to which this subdivision may have applied. Such deficiency may be asessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

(f) For purposes of this section—

(1) Except for purposes of subdivisions (g) and (h), the term "related person" means a person whose stock would be attributed under Section 24497 (other than subdivision (d) thereof) to the person first disposing of the property.

(2) The term "marketable securities" means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.

(3) Except as provided in paragraph (4), the term "payment" does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).

(4) Receipt of a bond or other evidence of indebtedness which—

(A) Is payable on demand, or

(B) Is issued by a corporation or a government or political subdivision thereof and is readily tradable,

shall be treated as receipt of payment.

(5) For purposes of paragraph (4), the term "readily tradable" means a bond or other evidence of indebtedness which is issued—

(A) With interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

(B) In any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

(6) In the case of any exchange described in subdivision (b) of Section 24941—

(A) The total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

(B) The gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of subdivision (b) of Section 24941, and

(C) The term "payment," when used in any provision of this section other than paragraph (1) of subdivision (b), shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in Section 24535 and is not treated as a dividend.

(7) The term "depreciable property" means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in Section 24349.

(g) (1) In the case of an installment sale of depreciable property between related persons within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code, subdivision (a) shall not apply, and, for purposes of this part, all payments to be received shall be deemed received in the year of the disposition.

(2) Paragraph (1) shall not apply if it is established to the satisfaction of the Franchise Tax Board that the disposition did not have as one of its principal purposes the avoidance of bank and corporation tax.

(h) (1) (A) If, in connection with a liquidation to which Section 24512 applies, in a transaction to which Section 24501 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in subdivision (b) of Section 24512, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

(B) Subparagraph (A) shall not apply to an installment obligation described in paragraph (2) of subdivision (a) of Section 24513 unless such obligation is also described in paragraph (2) of subdivision (b) of Section 24513.

(C) If the obligor of any installment obligation and the shareholder are related persons (within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code), to the extent such installment obligation is attributable to the disposition by the corporation of depreciable property—

(i) Subparagraph (A) shall not apply to such obligation, and

(ii) For purposes of this part, all payments to be received by the shareholder shall be deemed received in the year the shareholder receives the obligation.

(D) For purposes of subparagraph (A) of paragraph (1) of subdivision (e), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

(E) For purposes of subparagraph (A), in any case to which subdivision (c) of Section 24514 applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.

(2) If—

(A) Paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

(B) By reason of the liquidation such shareholder receives property in more than one income year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such income years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

(i) (1) In the case of an installment sale of Section 24356.2 or 24356.3 property, subdivision (a) shall not apply, and for purposes of this part, all payments to be received shall be deemed received in the year of disposition.

(2) Paragraph (1) shall apply only to the extent of the amounts allowed as deductions under Section 24356.2 with respect to Section 24356.2 property, and Section 24356.3 with respect to Section 24356.3 property.

(j) (1) The Franchise Tax Board shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

(2) The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

SEC. 37. Section 24837.5 of the Revenue and Taxation Code is amended to read:

24837.5. (a) (1) At the election of the taxpayer, expenditures paid or incurred during the income year for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, and paid or incurred before the beginning of the development stage of the mine, shall be allowed as a deduction in computing net income. This subdivision shall apply only with respect to the amount of those expenditures which, but for this subdivision, would not be allowable as a deduction for the income year. This subdivision shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in Sections 24349 to 24354.2, inclusive, but allowances for depreciation shall be considered, for purposes of this subdivision, as expenditures paid or incurred. In no case shall this subdivision apply with respect to amounts paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under Section

24832 or 24833.

(2) (A) Any election under this subdivision shall be made in that manner which the Franchise Tax Board may by regulations prescribe.

(B) The election provided by paragraph (1) for the income year may be made at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this part for the income year. That election for the income year shall apply to all expenditures described in paragraph (1) paid or incurred by the taxpayer during the income year or during any subsequent income year. That election may not be revoked unless the Franchise Tax Board consents to the revocation.

(C) The statutory period for the assessment of any deficiency for any income year, to the extent that deficiency is attributable to an election or revocation of an election under this subdivision, shall not expire before the last day of the three-year period beginning on the day after the date on which that election or revocation of election is made; and that deficiency may be assessed at any time before the expiration of that three-year period, notwithstanding any law or rule of law which would otherwise prevent such assessment.

(b) (1) If, in any income year, any mine with respect to which expenditures were deducted pursuant to subdivision (a) reaches the producing stage, then—

(A) If the taxpayer so elects with respect to all those mines reaching the producing stage during the income year, it shall include in gross income for the income year an amount equal to the adjusted exploration expenditures with respect to those mines, and the amount so included in income shall be treated for purposes of this part as expenditures which (i) are paid or incurred on the respective dates on which the mines reach the producing state, and (ii) are properly chargeable to capital account.

(B) If subparagraph (A) does not apply with respect to any such mine, then the deduction for depletion under Section 24831 with respect to the property shall be disallowed until the amount of depletion which would be allowable but for this subparagraph equals the amount of the adjusted exploration expenditures with respect to that mine.

(2) (A) Any election under this subdivision shall be made in that manner which the Franchise Tax Board may by regulations prescribe.

(B) The election provided by paragraph (1) for any income year may be made or changed not later than the time prescribed by law for filing the return (including extensions thereof) for that income year.

(c) If an election has been made under subdivision (a) with respect to expenditures relating to a mining property and the taxpayer receives or accrues a bonus or a royalty with respect to that property, then the deduction for depletion under Section 24831 with respect to the bonus or royalty shall be disallowed until the amount of deple-

tion which would be allowable but for this subdivision equals the amount of the adjusted exploration expenditures with respect to the property to which the bonus or royalty relates.

(d) (1) Except as otherwise provided in this subdivision if mining property is disposed of the lower of—

(A) The adjusted exploration expenditures with respect to that property, or

(B) The excess of—

(i) The amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value (in the case of any other disposition), over

(ii) The adjusted basis of that property,

shall be treated as gain from the sale or exchange of property. That gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of paragraph (1)—

(A) In the case of the disposition of a portion of a mining property (other than an undivided interest), the entire amount of the adjusted exploration expenditures with respect to that property shall be treated as attributable to that portion to the extent of the amount of the gain to which paragraph (1) applies.

(B) In the case of the disposition of an undivided interest in a mining property (or a portion thereof), a proportionate part of the adjusted exploration expenditures with respect to that property shall be treated as attributable to that undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditure to the extent the taxpayer establishes to the satisfaction of the Franchise Tax Board that the expenditure relates neither to the portion (or interest therein) disposed of nor to any mine, in the property held by the taxpayer before the disposition which has reached the producing stage.

(3) This subdivision shall apply notwithstanding any other provisions of this part.

(e) (1) The basis of any property shall not be reduced by the amount of any depletion which would be allowable but for the application of this section.

(2) The Franchise Tax Board shall prescribe any regulation which it may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under paragraph (1) of subdivision (d).

(f) For purposes of this section—

(1) The term "adjusted exploration expenditures" means, with respect to any property or mine—

(A) The amount of the expenditures allowed for the income year and all preceding income years as deductions under subdivision (a) to the taxpayer or any other person which are properly chargeable to that property or mine and which (but for the election under subdivision (a)) would be reflected in the adjusted

basis of that property or mine, reduced by

(B) For the income year and for each preceding income year, the amount (if any) by which (i) the amount which would have been allowable for percentage depletion under Section 24832 or 24833 but for the deduction of those expenditures, exceeds (ii) the amount allowable for depletion under Section 24831

properly adjusted for any amounts included in gross income under subdivision (b) or (c) and for any amounts of gain to which subdivision (d) applied.

(2) The term "mining property" means any property (within the meaning of Section 614 of the Internal Revenue Code after the application of subsections (c) and (e) thereof) with respect to which any expenditures allowed as a deduction under paragraph (1) of subdivision (a) are properly chargeable.

(g) (1) In the case of any property or mine received by the taxpayer in a distribution with respect to part or all of its interest in a partnership, the adjusted exploration expenditures with respect to that property or mine include the adjusted exploration expenditures (not otherwise included under paragraph (1) of subdivision (f) of this section) with respect to that property or mine immediately prior to the distribution, but the adjusted exploration expenditures with respect to that property or mine shall be reduced by the amount of gain to which Section 751 (b) of the Internal Revenue Code applied realized by the partnership (as constituted after the distribution) on the distribution of that property or mine.

(2) In the case of any property or mine held by a partnership after a distribution to a partner to which Section 751 (b) of the Internal Revenue Code applied, the adjusted exploration expenditures with respect to the property or mine shall, under regulations prescribed by the Franchise Tax Board be reduced by the amount of gain to which Section 751 (b) of the Internal Revenue Code applied realized by the partner with respect to the distribution on account of that property or mine.

(h) (1) Subdivision (a) shall apply to any amount paid or incurred after December 31, 1970, with respect to any deposit of ore or other mineral located outside the United States, only to the extent that the amount, when added to the amounts which are or have been deducted under subdivision (a) of this section and subdivision (a) of Section 24837 and the amounts which are or have been treated as deferred expenses under subdivision (b) of Section 24837 or the corresponding provisions of prior law, does not exceed four hundred thousand dollars ($400,000).

(2) For purposes of paragraph (1), there shall be taken into account amounts deducted and amounts treated as deferred expenses by—

(A) The taxpayer, and

(B) Any individual or corporation who has transferred to the taxpayer any mineral property.

(3) Subparagraph (B) of paragraph (2) shall apply with respect to

all amounts deducted and all amounts treated as deferred expenses which were paid or incurred before the latest such transfer from the individual or corporation to the taxpayer. Subparagraph (B) of paragraph (2) shall apply only if the taxpayer acquired any mineral property from the individual or corporation under circumstances which make Section 1082(c) of the Internal Revenue Code, or subdivision (b) of Section 24504, Sections 24552, 24553, 24575, subdivision (a) of Section 24577, Section 24961, or 24988 apply to that transfer.

(i) This section shall apply with respect to exploration expenditures paid or incurred after December 31, 1970.

SEC. 37.3. Section 25110 is added to the Revenue and Taxation Code, to read:

25110. (a) For corporations whose income is subject to the provisions of Sections 25101 or 25101.15, the net operating loss determined in accordance with Section 172 of the Internal Revenue Code, as modified by Section 24416, for a particular income year (taxable year of corporations subject to the tax imposed by Chapter 3 of this part) shall be the corporation's "net loss for state purposes" as defined in subdivision (c).

(b) The net operating loss deduction allowed by Section 24416 for an income year (taxable year of corporations subject to the tax imposed by Chapter 3 of this part) shall be deducted from "net income for state purposes" (as defined in subdivision (c)) for that income year (taxable year of corporations subject to the tax imposed by Chapter 3 of this part).

(c) "Net income (loss) for state purposes" means the sum of the net income or loss of that corporation apportionable to this state and the income or loss allocable to this state as nonbusiness income, as provided by Chapter 17 (commencing with Section 25101).

SEC. 38. Section 25959.3 of the Revenue and Taxation Code is amended and renumbered to read:

25957.3. (a) In any proceeding involving the issue of whether or not any person is liable for a penalty under Section 25957, 25957.1, or 25957.2, the burden of proof with respect to that issue shall be on the Franchise Tax Board.

(b) Sections 25664 through 25668, inclusive, (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by Section 25957, 25957.1, or 25957.2.

(c) (1) If, within 30 days after the day on which notice and demand of any penalty under Section 25957, 25957.1, or 25957.2 is made against any corporation, that corporation pays an amount which is not less than 15 percent of the amount of that penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of that penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding Section 25963, the beginning of that proceeding or levy during the time that prohibition is in force may be enjoined by a proceeding in the superior

court.

(2) If, within 30 days after the day on which the claim for refund of any partial payment of any penalty under Section 25957, 25957.1, or 25957.2 is denied (or, if earlier, within 30 days after the expiration of six months after the day on which a claim for refund was filed), the corporation fails to begin a proceeding in the superior court for the determination of its liability for that penalty, paragraph (1) shall cease to apply with respect to that penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

(3) The running of the period of limitations provided in Section 26251 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Franchise Tax Board is prohibited from collecting by levy or a proceeding in court.

SEC. 39. Section 25964 of the Revenue Code is amended to read:

25964. Any prosecution under this article shall be instituted within six years after the commission of the offense.

SEC. 40. Regulations adopted to implement the provisions of this act relating to the Revenue and Taxation Code shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These emergency regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 41. It is the intent of the Legislature, if this bill and SB 1278 are both chaptered and become effective on or before January 1, 1985, and this bill is chaptered after SB 1278, that Sections 17276.5 and 24417 of the Revenue and Taxation Code, as added by Sections 12.4 and 30.1 of this act shall not become operative and that Sections 17276.5 and 24417 of the Revenue and Taxation Code, as added by Sections 12.5 and 30.5 of this act, shall become operative. In that event, Sections 2, 3, and 4 of SB 1278, adding Sections 17202.6, 17732.5, and 24343.10 of the Revenue and Taxation Code shall remain operative only until the operative date of this bill, and as of that date are repealed.

SEC. 42. Section 1.5 of this bill incorporates amendments to Section 17024.5 of the Revenue and Taxation Code proposed by both this bill and AB 2215. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17024.5 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2215, in which case Section 17024.5 of the Revenue and Taxation Code, as amended by AB 2215, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1.3 of this bill shall not become operative.

SEC. 42.2. Section 1.8 of this bill incorporates amendments to

Section 17041 of the Revenue and Taxation Code proposed by both this bill and AB 2632. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17041 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2632, in which case Section 17041 of the Revenue and Taxation Code, as amended by AB 2632, shall remain operative only until the operative date of this bill, at which time Section 1.8 of this bill shall become operative, and Section 1.7 of this bill shall not become operative.

SEC. 42.5. (a) Section 3.1 of this bill incorporates amendments to Section 17053.5 of the Revenue and Taxation Code proposed by both this bill and SB 1400. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17053.5 of the Revenue and Taxation Code, (3) SB 120 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1400, in which case Sections 3, 3.2, and 3.3 of this bill shall not become operative.

(b) Section 3.2 of this bill incorporates amendments to Section 17053.5 of the Revenue and Taxation Code proposed by both this bill and SB 120. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 17053.5 of the Revenue and Taxation Code, (3) SB 1400 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 120 in which case Sections 3.1 and 3.3 of this bill shall not become operative. In that event, Section 3 of this bill shall remain operative only for taxable years beginning on or before December 31, 1985, and Section 3.2 of this bill shall become operative January 1, 1986, and shall apply in the computation of taxes for taxable years commencing on and after January 1, 1986.

(c) Section 3.3 of this bill incorporates amendments to Section 17053.5 of the Revenue and Taxation Code proposed by this bill, SB 1400, and SB 120. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 17053.5 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1400 and SB 120, in which case Sections 3 and 3.2 of this bill shall not become operative. In that event, Section 3.1 of this bill shall be operative only for taxable years beginning on or before December 31, 1985, and Section 3.3 of this bill shall become operative January 1, 1986, and shall apply in the computation of taxes for taxable years commencing on and after January 1, 1986.

SEC. 43. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 939

An act to add Section 58896 to the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1984. Filed with Secretary of State September 7, 1984.]

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

SECTION 1. Section 58896 is added to the Food and Agricultural Code, to read:

58896. A marketing order may contain provisions for the gathering and dissemination of weather data to producers of any commodity, and to any persons providing services relating to production of a commodity, when the data is necessary to aid in any manner in the production or harvesting of that commodity.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make certain that producers of agricultural commodities and persons who service those producers have accurate weather data so as to ensure an adequate supply of food and fiber in the current growing season, it is necessary that this act take effect immediately.

CHAPTER 940

An act to amend Section 830.3 of the Penal Code, relating to peace officers.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 830.3 of the Penal Code, as amended by Chapter 57 of the Statutes of 1984, is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by

their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of any such peace officer shall be the

enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(j) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of Section 556 of the Insurance Code.

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(m) Investigators of the Office of the Controller, provided that the primary duty of any such investigator shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(n) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(o) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(p) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(q) Investigators of the Office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

SEC. 1.5. Section 830.3 of the Penal Code, as amended by Chapter 57 of the Stautes of 1984, is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of such the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth

in Section 216 of that code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(j) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of Section 556 of the Insurance Code.

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(m) Investigators of the Office of the Controller, provided that the primary duty of any such investigator shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(n) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(o) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated

pursuant to this subdivision shall not carry firearms.

(p) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(q) Investigators of the Office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The investigators of the Division of Toxic Substances Control of the State Department of Health Services as are designated by the chief. The exclusive duty of any such peace officer shall be the enforcement of the law as set forth in Chapters 6.5 (commencing with Section 25100) and 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

SEC. 2. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers and duties, and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 830.3 of the Penal Code proposed by both this bill and AB 3990. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 830.3 of the Penal Code, and (3) this bill is enacted after AB 3990, in which case Section 1 of this bill shall not become operative.

CHAPTER 941

An act to amend Sections 7384.5, 7396.5, and 7437.4 of, and to add Sections 7327, 7350.1, and 7352 to, the Business and Professions Code, relating to cosmetology.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 7327 is added to the Business and Professions Code, to read:

7327. *This chapter confers no authority to practice medicine or* surgery.

SEC. 2. Section 7350.1 is added to the Business and Professions Code, to read:

7350.1. A manicurist, unless otherwise licensed by the board, is

specifically prohibited from engaging in any and all of the following practices:

(a) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying, or otherwise treating by any means the hair on the head of any person.

(b) Massaging, cleaning, or stimulating the scalp, by means of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(c) Giving facials, applying makeup, giving skin care other than to the hands or feet, removing hair by tweezing, depilatory, or waxing or applying eyelashes to any person.

(d) Beautifying the face, neck, bust, or upper part of the human body, except the hands, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(e) Massaging, cleaning, or stimulating the face, neck, bust, or upper part of the human body, except the hands, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(f) Removing superfluous hair from the body of any person by the use of depilatories, or waxing, or by the use of tweezers.

SEC. 3. Section 7352 is added to the Business and Professions Code, to read:

7352. When providing a manicure or pedicure, a cosmetologist or manicurist shall use no metal instruments except those metal instruments necessary for the cutting, trimming, manicuring, or pedicuring of nails or cuticles.

SEC. 4. Section 7384.5 of the Business and Professions Code is amended to read:

7384.5. Every cosmetological establishment where hairdressing services are performed shall provide at least one public toilet room located on the premises for its patrons. Any toilet room installed after the effective date of this chapter shall be not less than 18 square feet in area. The entrance to the room shall be effectively screened so that no toilet compartment is visible from any workroom. The room shall be kept in a clean condition and in good repair, well lighted and ventilated to the outside air and effectively screened against insects and free from rodents. The floor shall be of cement, tile laid in cement, vitrified brick, or other nonabsorbent material. All sewer drains shall be connected to an approved disposal system, and shall be properly trapped. No toilet room shall be used for storage.

SEC. 5. Section 7396.5 of the Business and Professions Code is amended to read:

7396.5. (a) At every school of cosmetology, including those under the Public School System of this state, the ratio of full-time instructors present and on the premises to students attending the school shall be at least one full-time instructor for every 25 students or less, and one additional full-time instructor for every additional 25 students or less after the first 25.

(b) For the purposes of this section, "students attending the school" means the number of students comprising the average daily attendance of students computed over a three-month period.

SEC. 6. Section 7437.4 of the Business and Professions Code is amended to read:

7437.4. The board shall adopt regulations providing for an inactive license status.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 942

An act to amend Section 2307 of the Business and Professions Code, relating to the practice of medicine.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 2307 of the Business and Professions Code is amended to read:

2307. A person whose certificate has been revoked or suspended or who has been placed on probation may petition the Division of Medical Quality for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action.

The petition shall state such fact as may be required by the division. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition may be heard by the division, or the division may assign the petition to a medical quality review committee for hearing by a panel composed of seven members specifically constituted for this purpose. The panel shall consist of four physicians, one nonphysician licentiate of a healing arts board, one public member, and one member who may be either a public member or a nonphysician licentiate of a healing arts board. For the purposes of such a hearing, five members of a panel shall constitute a quorum. If for any reason, a seven-member panel from one committee cannot be assigned,

members from other committees may be assigned to the panel for the purpose of the hearing.

The division or a panel hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the division or panel finds necessary.

The division or panel reinstating a certificate or modifying a penalty may impose such terms and conditions as it deems necessary. To reinstate a revoked certificate requires the affirmative vote of at least five members of the division or of the panel hearing the petition, as the case may be. To otherwise reduce a penalty or modify probation requires the affirmative vote of at least four members of the division or of the panel hearing the petition, as the case may be. A decision by the division or a panel shall be final.

No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The division may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

CHAPTER 943

An act to amend Sections 8762, 8764, 8764.5, 8765, 8766, 8766.5, 8767, 8768, and 8772 of, and to add Section 8768.5 to, the Business and Professions Code, relating to land surveyors.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 8762 of the Business and Professions Code is amended to read:

8762. After making a survey in conformity with the practice of land surveying, the surveyor or civil engineer may file with the county surveyor in the county in which the survey was made, a record of the survey.

After making a survey in conformity with the practice of land surveying, the licensed land surveyor or registered civil engineer shall file with the county surveyor in the county in which the survey was made a record of the survey relating to land boundaries or property lines, if the survey discloses any of the following:

(a) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

(b) A material discrepancy with the information contained in any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

(c) Evidence that, by reasonable analysis, might result in materially alternate positions of lines or points, shown on any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States.

(d) The establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey without trigonometric calculations.

(e) The points or lines set during a survey of any parcel described in any deed or other instrument of title recorded in the county recorder's office are not shown on any subdivision map, official map, or record of survey.

The record of survey required to be filed pursuant to this section shall be filed within 90 days after the setting of boundary monuments during the performance of a survey or within 90 days after completion of a survey, whichever occurs first.

If the 90-day time limit contained in this section cannot be complied with for reasons beyond the control of the licensed land surveyor or registered civil engineer, the 90-day time period shall be extended until such time as the reasons for delay are eliminated. If the licensed land surveyor or registered civil engineer cannot comply with the 90-day time limit, he or she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a letter stating that he or she is unable to comply. The letter shall provide an estimate of the date for completion of the record of survey, the reasons for the delay, and a general statement as to the location of the survey, including the assessor's parcel number or numbers.

The licensed land surveyor or registered civil engineer shall not initially be required to provide specific details of the survey. However, if other surveys at the same location are performed by others which may affect or be affected by the survey, the licensed land surveyor or registered civil engineer shall then provide information requested by the county surveyor without unreasonable

delay.

Any record of survey filed with the county surveyor shall, after being examined by him or her, be filed with the county recorder.

SEC. 2. Section 8764 of the Business and Professions Code is amended to read:

8764. The record of survey shall show the applicable provisions of the following consistent with the purpose of the survey:

(a) All monuments found, set, reset, replaced, or removed, describing their kind, size, and location, and giving other data relating thereto.

(b) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map, and north arrow.

(c) Name and legal designation of the property in which the survey is located, and the date or time period of the survey.

(d) The relationship to those portions of adjacent tracts, streets, or senior conveyances which have common lines with the survey.

(e) Memorandum of oaths.

(f) Certificates and statements required by Section 8764.5.

(g) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines, and areas shown, or convenient for the identification of the survey or surveyor, as may be determined by the civil engineer or land surveyor filing the record of survey.

The record of survey shall also show, either graphically or by note, the reason or reasons, if any, why the mandatory filing provisions of subdivisions (a) to (e), inclusive, of Section 8762 apply.

The record of survey need not consist of a survey of an entire property.

SEC. 3. Section 8764.5 of the Business and Professions Code is amended to read:

8764.5. Certificates and statements shall appear on the map as follows:

SURVEYOR'S STATEMENT

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Land Surveyors' Act at the request of _____

Name of Person Authorizing Survey

in_____, 19__.

(Signed and sealed) _____

L.S. (or R.C.E.) No. _____

COUNTY SURVEYOR'S STATEMENT

This map has been examined in accordance with Section 8766 of the Land Surveyors' Act this _____ day of _____, 19__.

(Signed and sealed) _____

County Surveyor

L.S. (or R.C.E.) No. _____

RECORDER'S CERTIFICATE

Filed this _____ day of _____, 19__, at _____.m. in Book _____ of _____ at page _____, at the request of _____.

(Signed) _____

County Recorder

No other certificates or statements may appear on the face of the map except those required or authorized by this article.

SEC. 4. Section 8765 of the Business and Professions Code is amended to read:

8765. A record of survey is not required of any survey:

(a) When it has been made by a public officer in his or her official capacity and a reproducible copy thereof, showing all data required by Section 8764, except the recorder's certificate, has been filed with the county surveyor of the county in which the land is located. Any map so filed shall be indexed and kept available for public inspection.

(b) Made by the United States Bureau of Land Management.

(c) When a map is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act.

(d) When the survey is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with those records are found and sufficient monumentation is found to establish the precise location of property corners thereon, provided that a corner record is filed for any property corners which are set or reset or found to be of a different character than indicated by prior records. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

SEC. 5. Section 8766 of the Business and Professions Code is amended to read:

8766. Within 20 working days after receiving the record of survey, or within such additional time as may be mutually agreed upon by the land surveyor or civil engineer and the county surveyor, the county surveyor shall examine it with respect to all of the following:

(a) Its accuracy of mathematical data and substantial compliance with the information required by Section 8764.

(b) Its compliance with Sections 8762.5, 8763, 8764.5, 8771.5, and 8772.

The examination pursuant to this section shall not require the licensed land surveyor or registered civil engineer submitting the record of survey to change the methods or procedures utilized or employed in the performance of the survey, nor shall the examination require a field survey to verify the data shown on the

record of survey.

Nothing in this section shall limit the county surveyor from including notes expressing opinions regarding the record of survey, or the methods or procedures utilized or employed in the performance of the survey.

The examination pursuant to this section shall be performed by, or under the direct supervision of, a licensed land surveyor or registered civil engineer.

SEC. 6. Section 8766.5 of the Business and Professions Code is amended to read:

8766.5. The county surveyor may charge a reasonable fee for examining a record of survey pursuant to Section 8766 which shall not exceed the cost of the service or one hundred dollars ($100), whichever is the lesser. However, this one hundred dollars ($100) maximum fee may be increased by the board of supervisors if such an increase is authorized by a duly adopted ordinance and the ordinance was adopted pursuant to a staff report demonstrating that the cost of providing the examination service actually exceeds one hundred dollars ($100) per record of survey.

SEC. 7. Section 8767 of the Business and Professions Code is amended to read:

8767. If the county surveyor finds that the record of survey complies with the examination in Section 8766, the county surveyor shall endorse a statement on it of his or her examination, and shall present it to the county recorder for filing. Otherwise the county surveyor shall return it to the person who presented it, together with a written statement of the changes necessary to make it conform to the requirements of Section 8766. The licensed land surveyor or registered civil engineer submitting the record of survey may then make the agreed changes and note those matters which cannot be agreed upon and resubmit the record of survey pursuant to Section 8768.

SEC. 8. Section 8768 of the Business and Professions Code is amended to read:

8768. If the matters appearing on the record of survey cannot be agreed upon by the licensed land surveyor or the registered civil engineer and the county surveyor within 10 working days after the licensed land surveyor or registered civil engineer resubmits and requests the record of survey be filed without further change, an explanation of the differences shall be noted on the map and it shall be presented by the county surveyor to the county recorder for filing, and the county recorder shall file the record of survey.

SEC. 8.5. Section 8768.5 is added to the Business and Professions Code, to read:

8768.5. If the county surveyor fails to timely file the record of survey with the county recorder in accordance with Section 8768, the licensed land surveyor or registered civil engineer submitting the map may bring an action pursuant to Section 1085 of the Code

of Civil Procedure to compel the filing of the record of survey. After the licensed land surveyor or registered civil engineer resubmits and requests the record of survey be filed without further change, the filing of the record of survey shall be deemed to be a ministerial act.

In any action brought pursuant to Section 1085 of the Code of Civil Procedure between a licensed land surveyor or a registered civil engineer and the county surveyor of any county, the court may award to the prevailing party costs and other expenses of litigation, including the payment of experts and other witnesses, and reasonable attorney's fees.

SEC. 9. Section 8772 of the Business and Professions Code is amended to read:

8772. Any monument set by a licensed land surveyor or registered civil engineer to mark or reference a point on a property or land line shall be permanently and visibly marked or tagged with the certificate number of the surveyor or civil engineer setting it, each number to be preceeded by the letters "L.S." or "R.C.E.," respectively, as the case may be or, if the monument is set by a public agency, it shall be marked with the name of the agency and the political subdivision it serves.

Nothing in this section shall prevent the inclusion of other information on the tag which will assist in the tracing or location of the survey records which relate to the tagged monument.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 944

An act to amend Sections 16700, 16702, and 16704 of, and to add Section 16702.1 to, the Welfare and Institutions Code, relating to county health services, and making an appropriation therefor.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 16700 of the Welfare and Institutions Code is amended to read:

16700. (a) For purposes of this part, "local jurisdiction" means a county, an existing local health district formed pursuant to Chapter

6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, or a city which has not transferred to the county enforcement authority of applicable health statutes and regulations, or a city which provides public health services pursuant to a contract with a county through an organized health department recognized by the State Department of Health Services.

(b) (1) On or before September 15 of the 1982–83 and 1983–84 fiscal years, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the State Director of Health Services an update of its adopted 1981–82 county health services plan and budget in the form and in accordance with procedures specified by the director.

(2) On or before September 15, 1983, and each third subsequent year thereafter, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the department a multiyear base county health services plan and budget for the next fiscal year in the form and in accordance with procedures established in regulations promulgated by the department. The Cities of Long Beach and Pasadena shall adopt and submit the multiyear plan and budget by September 15 of the initial fiscal year of receiving county health services funds, and adhere in following years to the same three-year submission cycle used by the other health jurisdictions in following years.

(3) On or before September 15 of 1984 and each year thereafter, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the department an update of its adopted multiyear county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department. The Cities of Long Beach and Pasadena shall submit the update of its multiyear plan and budget in the fiscal year following the initial year of receiving county health service funds, and each year thereafter.

(c) The county health services plan and budget adopted by the governing body of each county shall include, but not be limited to, the following information:

(1) The eligibility criteria that will be used by the county in determining the allocation of funds received and services provided pursuant to Section 16703.

(2) A description of the county's eligibility process, beneficiary notification on availability of services, services to be provided, accessibility of service, resources, collections, target population size, and costs.

(d) The department shall develop and implement the regulations governing the form and procedures for the preparation and submission of multiyear base county health services plans and budgets and updates in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multiyear base county health services plans and budgets by September 15, 1983.

(e) For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multiyear base county health services plan and budget, but shall serve as a progress report both evaluating what has been accomplished over the past year and describing what will be accomplished in relation to each of the elements in the multiyear base county health services plan and budget during the coming year.

(f) An update or a multiyear county health services plan and budget shall be considered a county health services plan and budget for purposes of this part.

SEC. 2. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county health services plan and budget shall be financed in each county, the City of Berkeley, the City of Long Beach, the City of Pasadena, and each existing local health district with assistance from the County Health Services Fund in accordance with the following:

(a) For each county, an annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The base net costs increased by 16 percent for the 1979–80 fiscal year.

(2) The amount calculated for the county in subdivision (a).

(3) The base net costs for each county shall be the actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978 and adjusted as applicable pursuant to this section.

(c) (1) The amount of assistance from the County Health Services Fund for the County of Alameda, as determined in subdivision (b), shall include an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(2) The amount of assistance from the County Health Services Fund for the City of Berkeley shall be an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(3) The amount of assistance from the County Health Services Fund for the San Joaquin Local Health District shall be that amount set forth in the Budget Act of 1981 for that purpose for the 1981–82 fiscal year.

(4) The amounts of assistance from the County Health Services

Fund for the City of Long Beach and the City of Pasadena shall be the average amounts of the Public Health Services Contracts with Los Angeles County, less the average revenue from environmental health permit fees collected in each jurisdiction and retained by the county for three years prior to the initial year of County Health Services Fund assistance to the City of Long Beach and the City of Pasadena. These amounts shall be adjusted by the average increase in the amount of the contract over the same period. This paragraph shall be operative in the fiscal year following the adoption of a resolution by the governing body pursuant to Section 477 of the Health and Safety Code.

(5) The base net costs for the County of Los Angeles shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena as determined by the formula established in paragraph (4).

(6) The amount of assistance for the County of Los Angeles, as determined in subdivision (a), shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena, as determined in paragraph (4).

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) On July 1, 1980, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. On July 1, 1981, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and shall be adjusted to reflect the funds transferred pursuant to Section 12 of Chapter 1004 of the Statutes of 1981. On July 1, 1982, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and the increases, if any, in the Budget Act for the 1982–83 fiscal year. On July 1, 1983, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c), and (d), as adjusted pursuant to this subdivision for the 1982–83 fiscal year, shall be adjusted to reflect any increases or decreases in the cost of living occurring during the 1982 calendar year and each year thereafter. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisons (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

SEC. 3. Section 16702.1 is added to the Welfare and Institutions Code, to read:

16702.1. Notwithstanding any other provision of law, if the City of Long Beach or the City of Pasadena, or both, adopts a resolution pursuant to Section 476 of the Health and Safety Code and relinquishes responsibility for public health services to Los Angeles County, the provision of this part pertaining to the City of Long Beach or the City of Pasadena, or both, shall no longer apply, and the funds available shall be added back to the allocation for Los Angeles County specified in subdivision (a) of Section 16702, and the county's base net cost shall be adjusted by the same amount the fiscal year following the action of the resolution.

SEC. 3.5. Section 16704 of the Welfare and Institutions Code is amended to read:

16704. Funds from the County Health Services Fund shall be allocated to the governing body of each county, the City of Berkeley, the City of Long Beach, the City of Pasadena, and each existing local health district annually in accordance with the following procedures:

(a) The allocation of the amount determined in subdivision (a) of Section 16702 shall be made to each governing body of each county upon submission of the plan and budget as required by Section 16700. These funds shall be expended for county health services.

(b) The allocation of the amounts up to the maximum determined in subdivisions (b), (c), and (d) of Section 16702 shall be made upon application by the governing body of each local jurisdiction and upon signing of an agreement between the governing body and the State Director of Health Services. In the agreement, (1) all local jurisdictions shall agree to expend funds in an aggregate amount at least equal to the total amount designated in the plan and budget submitted pursuant to Section 16700; (2) counties shall agree to net county costs for county health services of county funds in the same amount as the funds requested under this subdivision pursuant to subdivision (b) of Section 16702; (3) counties shall agree to expend one dollar ($1) of county funds for every three dollars ($3) of state funds requested pursuant to subdivision (d) of Section 16702; (4) the City of Berkeley shall agree to expend three dollars ($3) of city funds for every one dollar ($1) of state funds requested pursuant to paragraph (2) of subdivision (c) of Section 16702; and (5) all local health districts shall agree to expend two dollars ($2) of district funds for every one dollar ($1) of state funds requested pursuant to paragraph (3) of subdivision (c) of Section 16702. Funds requested pursuant to subdivision (d) and paragraph (3) of subdivision (c) of Section 16702 shall be expended only for public health services. The City of Long Beach and the City of Pasadena shall agree to expend the allocations received pursuant to paragraph (4) of subdivision (c) of Section 16702 only for public health services, exclusive of animal control and paramedic services.

(c) (1) The allocation of funds appropriated pursuant to subdivisions (c) and (d) of Section 16703 shall be made upon application by the county board of supervisors. The application shall be in a form and in accordance with procedures and format

established by the department. The board shall assure that it will expend such funds only for the health services specified in Sections 14132 and 14021 provided to persons certified as eligible for such services pursuant to Section 17000. Unless the county has entered into a contract with the department under Section 16709 which is effective either for an entire fiscal year, including the 1983–84 fiscal year, or is effective for the period commencing October 1, 1983, and ending on June 30, 1984, the board shall also assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under Section 16702. These assurances shall be incorporated in the agreement specified in subdivision (b). In no event shall such funds be expended for costs of services specified in county Short-Doyle plans which are in excess of the 125 percent limitation specified in Section 5705.1.

(2) A county may reduce the amount of net costs of county funds for county health services required pursuant to paragraph (1) of subdivision (c) to the extent such reduction has been permitted pursuant to the provisions of Section 16705 or 16705.5, provided that, for fiscal year 1982–83 only, the provisions of Section 16705 shall not be operative, except for counties which received approval for reductions pursuant to this section in prior fiscal years.

(3) Any person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service or to preclude a county from utilizing its own forms for the purpose of identifying persons eligible for county health care services. The Board of Control shall not honor any claims by a local agency for reimbursement of costs under this section. The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandate that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1985, unless a later enacted statute extends or deletes that date.

(d) The agreement shall provide for reports of expenditures and information and shall constitute a contractual obligation. The State Director of Health Services shall not have the authority to disapprove the county health services plan or to require the additional expenditure of county, city, or district funds for health services beyond that required by this section and Section 16707.

(e) The local jurisdiction shall act in general accordance with the plan and budget submitted pursuant to Section 16700.

(f) Notwithstanding any other provision of this part, there shall be no increase in the amount of county funds required pursuant to paragraph (2) of subdivision (b) as a result of the implementation of paragraphs (4), (5) and (6) of subdivision (c) of Section 16702.

CHAPTER 945

An act to amend Section 7042.5 of the Business and Professions Code, relating to contractors licensing.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 7042.5 of the Business and Professions Code is amended to read:

7042.5. This chapter does not apply to public utilities operating under the regulation of the Public Utilities Commission on construction, maintenance, and development work incidental to their own business, or to those activities of a cable television corporation subject to regulation pursuant to Section 768.5 of the Public Utilities Code, except underground trenching by a cable television corporation within the public streets, other than that necessary solely for the connection of its distribution system to, or within the properties of, subscribers or potential subscribers.

As used in this section, a cable television corporation is a corporation or person that transmits television programs by cable to subscribers for a fee.

CHAPTER 946

An act to amend Section 33670 of the Health and Safety Code, to amend Sections 75, 75.5, 75.10, 75.11, 75.13, 75.22, 75.31, 75.40, 75.41, 75.42, 75.50, 75.52, 75.53, 75.54, 75.60, 75.70, 97.5, 217.1, 5097, and 5097.2 of, to amend the heading of Article 6 (commencing with Section 75.50) of Chapter 3.5 of Part 0.5 of Division 1 of, to add Sections 75.32, 75.43, and 75.72 to, to add, repeal, and add Section 75.15 of, to repeal and add Section 75.12 of, and to repeal Section 75.55 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 33670 of the Health and Safety Code is amended to read:

33670. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid to the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date); and

(b) That portion of the levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by such redevelopment agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in such redevelopment project shall be paid to the respective taxing agencies. When such loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such redevelopment project shall be paid to the respective taxing agencies as taxes on all other property are paid.

(c) In any redevelopment project in which taxes have been divided pursuant to this section prior to 1968, located within any county with total assessed valuation subject to general property taxes for the fiscal year 1967–1968 between two billion dollars ($2,000,000,000) and two billion one hundred million dollars

($2,100,000,000), if the total assessed valuation of taxable property within the redevelopment project for the fiscal year 1967–1968 was reduced, the total sum of the assessed value of taxable property used as the basis for apportionment of taxes under subdivision (a) shall be reduced by 10 percent for the fiscal year 1968–1969 and fiscal years thereafter.

(d) For the purposes of this section, taxes shall not include taxes from the supplemental assessment roll levied pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code for the 1983–84 fiscal year.

SEC. 1.5. Section 75 of the Revenue and Taxation Code is amended to read:

75. It is the intent of the Legislature in enacting this chapter to fully implement Article XIII A of the California Constitution and to promote increased equity among taxpayers by enrolling and making adjustments of taxes resulting from changes in assessed value due to changes in ownership and completion of new construction at the time they occur. The Legislature finds and declares that under the law in effect prior to the enactment of this chapter, recognition of these increases is delayed from four to 16 months, which results in an unwarranted reduction of taxes for some taxpayers with a proportionate and inequitable shift of the tax burden to other taxpayers.

It is also the intent of the Legislature that the provisions of this chapter shall be limited to assessments on the supplemental roll which are authorized by the provisions of this chapter and none of its provisions shall be applied, construed, or used as a basis for interpreting legislative intent when determining the effect of any other provision of this division. The Legislature finds and declares that the supplemental assessment system created by this chapter involves practical tax administration considerations which require unique solutions. Except as expressly provided in Article 2.5 (commencing with Section 75.18), these solutions are not appropriate to the general assessment of property under the provisions of Chapter 3 (commencing with Section 401) of Part 2 and the adoption of the supplemental roll assessment system is not intended to affect the valuation or assessment provisions applicable to the regular assessment roll.

SEC. 2. Section 75.5 of the Revenue and Taxation Code is amended to read:

75.5. "Property" means and includes real property and mobilehomes subject to taxation under Part 13 (commencing with Section 5800).

SEC. 2.5. Section 75.10 of the Revenue and Taxation Code is amended to read:

75.10. (a) Commencing with the 1983–84 assessment year and each assessment year thereafter, whenever a change in ownership occurs or new construction resulting from actual physical new construction on the site is completed, the assessor shall appraise the

property changing ownership or the new construction at its full cash value on the date the change in ownership occurs or the new construction is completed. The value so determined shall be the new base year value of the property or the new construction.

(b) For purposes of this section, "actual physical new construction" includes the discovery of previously unknown reserves of oil or gas.

SEC. 3. Section 75.11 of the Revenue and Taxation Code is amended to read:

75.11. (a) If the change in ownership occurs or the new construction is completed on or after March 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

(b) If the change in ownership occurs or the new construction is completed on or after June 1 but before the succeeding March 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple change in ownership occurrences of, or new construction completions to, the same real property, or both, during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

SEC. 4. Section 75.12 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 75.12 is added to the Revenue and Taxation Code, to read:

75.12. (a) For the purposes of this chapter, new construction shall be deemed completed on the earliest of the following dates:

(1) The date upon which the new construction is available for use

by the owner, unless the owner does not intend to occupy or use the property. The owner shall notify the assessor prior to, or within 30 days of, the date of commencement of construction that he or she does not intend to occupy or use the property. If the owner does not notify the assessor as provided in this subdivision, the date shall be conclusively presumed to be the date of completion.

(2) If the owner does not intend to occupy or use the property, the date the property is occupied or used with the owner's consent.

(3) If the property cannot be functionally used or occupied on the date it is available for use considering the type of property and any special facts and circumstances affecting use or occupancy, the date the property can be functionally used or occupied.

(b) For the purposes of this section:

(1) "Occupy or use" means the occupancy or use by the owner, including the rental or lease of the property, except as provided in paragraph (2).

(2) Property shall not be considered occupied or used by the owner or with the owner's consent if the occupancy or use is incidental to an offer for a change of ownership, including, but not limited to, use of the property as a model home.

(c) The board, after consultation with the California Assessors Association, shall adopt rules and regulations defining the date of completion of new construction in accordance with this section. The rules and regulations shall not define the date of completion in such a manner that the date of completion of all new construction is postponed until the following lien date.

The rules and regulations adopted pursuant to this section shall not be subject to review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Nothing in this section shall preclude the reassessment of any such property on the assessment roll for March 1 following the date of completion.

(e) The owner of any property who notifies the assessor pursuant to subdivision (a) that he or she does not intend to occupy or use the property shall notify the assessor within 45 days of the earliest date that any of the following occur:

(1) The property changes ownership pursuant to an unrecorded contract of sale.

(2) The property is leased or rented.

(3) The property is occupied or used by the owner for any purpose other than provided in subdivision (b).

(4) The property is occupied or used with the owner's consent for any purpose other than provided in subdivision (b).

(f) The failure to provide the assessor the notice required by subdivision (e), whether requested or not, shall result in a penalty in the amount specified in Section 482.

SEC. 6. Section 75.13 of the Revenue and Taxation Code is

amended to read:

75.13. Any supplemental assessment shall not be deemed to be an escaped assessment subject to Section 4837.5.

SEC. 6.5. Section 75.15 is added to the Revenue and Taxation Code, to read:

75.15. (a) For fixtures, other than fixtures which are included in a change of ownership or which are included in a structure and are assessed at the completion of the new construction of a structure pursuant to Section 75.12, taxpayers shall report, beginning in 1985, to the assessor once each year at the time the annual property statement is due, on the fixtures added to real property and fixtures removed from real property, the dates of those additions and removals, and the values of each in the prior 12-month period from March 1 to March 1. One supplemental tax bill shall be prepared for those fixtures based on the value of the fixtures added and subtracted from real property, the date of each addition or subtraction, and the appropriate tax rate computed pursuant to Section 75.41.

The taxes due from the resulting tax bill shall be collected in the same manner and at the same times as other supplemental tax bills mailed on the same date.

(b) As used in this section, a fixture is an item of tangible property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remain annexed indefinitely.

The phrase "annexed indefinitely" means the item is intended to remain annexed until worn out, until superseded by a more suitable replacement, or until the purpose to which the realty is devoted has been accomplished or materially altered.

Property is physically annexed if it is attached to, imbedded in, or permanently resting upon land or improvements in accordance with Section 660 of the Civil Code, or by other means that are normally used for permanent installation. If the property being classified cannot be removed without substantially damaging it or the real property with which it is being used, it is to be considered physically annexed. If the property can be removed without material damage but is actually attached, it is to be classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations.

Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely.

Property shall not be considered physically annexed to realty solely because of attachment of the realty by "quick disconnect" attachments, such as simple wiring and conduit connections.

Property not physically annexed to realty (including fixtures) is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in determining whether the

property is a necessary, integral, or working part of the realty are whether the nonattached item is designed or committed for use with specific realty, or whether the realty can perform its desired function without the nonattached item.

Property connected to the realty by quick disconnect conduits which contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property is constructively annexed only if it satisfies one of the factors in the above paragraph.

(c) For the purposes of the supplemental roll, taxpayers shall report pursuant to this section only those fixtures which are taxable on the supplemental roll.

(d) This section shall cease to be operative on March 1, 1987, and on that date is repealed.

SEC. 6.9. Section 75.15 is added to the Revenue and Taxation Code, to read:

75.15. (a) For fixtures, other than fixtures which are included in a change of ownership or which are included in a structure and are assessed at the completion of the new construction of a structure pursuant to Section 75.12, taxpayers shall report, beginning in 1987, to the assessor once each year at the time the annual property statement is due, on the fixtures added to real property and fixtures removed from real property, the dates of those additions and removals, and the values of each in the prior 12-month period from March 1 to March 1. One supplemental tax bill shall be prepared for those fixtures based on the value of the fixtures added and subtracted from real property, the date of each addition or subtraction, and the appropriate tax rate computed pursuant to Section 75.41.

The taxes due from the resulting tax bill shall be collected in the same manner and at the same times as other supplemental tax bills mailed on the same date.

(b) For the purposes of the supplemental roll, taxpayers shall report pursuant to this section only those fixtures which are taxable on the supplemental roll.

(c) This section shall become operative on March 1, 1987, and shall apply to supplemental taxes for the 1987–88 fiscal year and fiscal years thereafter.

SEC. 7. Section 75.22 of the Revenue and Taxation Code is amended to read:

75.22. A property shall be eligible for exemption from the supplemental assessment if the person claiming the exemption meets the qualifications for the exemption established by this part no later than 90 days after the date of the change in ownership or the completion of new construction.

SEC. 9. Section 75.31 of the Revenue and Taxation Code is amended to read:

75.31. (a) Whenever the assessor has determined a new base year value as provided in Section 75.10, the assessor shall send a notice to the assessee showing the following:

(1) The new base year value of the property which has changed ownership, or the new base year value of the completed new construction which shall be added to the existing taxable value of the remainder of the property.

(2) The taxable value appearing on the current roll, and if the change in ownership or completion of new construction occurred between March 1 and May 31, the taxable value on the roll being prepared.

(3) The date of the change in ownership or completion of new construction.

(4) The amount of the supplemental assessments.

(5) The exempt amount, if any, on the current roll or the roll being prepared.

(6) The date the notice was mailed.

(7) A statement that the supplemental assessment was determined in accordance with Article XIII A of the California Constitution which generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(8) Any other information which the board may prescribe.

(b) In addition to the information specified in subdivision (a), the notice shall inform the assessee of the procedure for filing a claim for exemption which is to be filed within 30 days of the date of the notice.

(c) The notice shall advise the assessee of the right to appeal the supplemental assessment, and, unless subject to subdivision (d), that the appeal must be received within 60 days of the date of the notice. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605, except that the application shall be filed within 60 days of notice, unless governed by subdivision (d).

(d) For counties of the first class, the notice shall advise the assessee of the right to appeal the supplemental assessment, and that the appeal must be received within 60 days of the date of the mailing of the tax bill. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(e) The notice shall advise the assessee that if the supplemental assessment is a negative amount the auditor shall make a refund of a portion of taxes paid on assessments made on the current roll, or the roll being prepared, or both.

(f) The notice shall be furnished by the assessor to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor.

SEC. 10. Section 75.32 is added to the Revenue and Taxation Code, to read:

75.32. The failure of the assessee to receive a notice required by Section 75.31 shall not affect the validity of any assessment or the validity of any taxes levied pursuant to this chapter.

SEC. 11. Section 75.40 of the Revenue and Taxation Code is amended to read:

75.40. When the period for claiming exemption has expired, and any exemptions have been processed, the assessor shall transmit the supplemental assessment to the auditor including the following information:

(a) Name and address, if known, of the assessee.

(b) The parcel number or legal description of the property.

(c) The tax rate area in which the property is located.

(d) The new base year value of the property with the value for the land separated from the value for improvements.

(e) The value of the property on the current roll, or the roll being prepared, or both.

(f) The exemption applicable, if any.

(g) The net supplemental assessment after exemption.

(h) The date of the change of ownership or completion of new construction.

SEC. 12. Section 75.41 of the Revenue and Taxation Code is amended to read:

75.41. (a) The auditor shall apply the current year's tax rate, as defined in Section 75.4, to the supplemental assessment or assessments, computing the amount of taxes that would be due for a full year. For property on the supplemental roll, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the presumed date specified in subdivision (b) is April 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.25; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(2) If the presumed date specified in subdivision (b) is May 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.17; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(3) If the presumed date specified in subdivision (b) is June 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.08; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(4) If the presumed date specified in subdivision (b) is July 1, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(5) If the presumed date specified in subdivision (b) is on or after

August 1, and on or before March 1, the following table of factors shall be used:

If the presumed date is:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
August 1	.92
September 1	.83
October 1	.75
November 1	.67
December 1	.58
January 1	.50
February 1	.42
March 1	.33

(d) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee is entitled.

SEC. 13. Section 75.42 of the Revenue and Taxation Code is amended to read:

75.42. The information transmitted to the auditor by the assessor, together with the extended taxes due, or extension of the refund, shall be enrolled on the supplemental roll.

SEC. 14. Section 75.43 is added to the Revenue and Taxation Code, to read:

75.43. (a) If a refund is due the assessee, the auditor shall make the refund within 30 days of the date of enrollment of the negative assessment on the supplemental roll. Refunds shall be made from taxes collected on assessments made on the supplemental roll.

(b) If the refund is not made as provided in subdivision (a), interest shall be paid at a rate provided by Section 5151, computed from a date 30 days after the date of enrollment of the negative assessment to the date the refund is mailed.

SEC. 15. The heading of Article 6 (commencing with Section 75.50) of Chapter 3.5 of Part 0.5 of Division 1 of the Revenue and Taxation Code is amended to read:

Article 6. Collection of Supplemental Taxes

SEC. 16. Section 75.50 of the Revenue and Taxation Code is amended to read:

75.50. The auditor shall transmit supplemental assessments entered on the supplemental roll to the tax collector for preparation of supplemental tax bills, and charge the tax collector with the taxes extended thereon.

SEC. 17. Section 75.52 of the Revenue and Taxation Code is amended to read:

75.52. Taxes on the supplemental bill are due on the date mailed and shall become delinquent as follows:

(a) If the bill is mailed within the months of July through October, the first installment shall become delinquent at 5 p.m. on December 10 of the same year. The second installment shall become delinquent at 5 p.m. on April 10 of the next year.

(b) If the bill is mailed within the months of November through June, the first installment shall become delinquent at 5 p.m. on the last day of the month following the month in which the bill is mailed. The second installment shall become delinquent at 5 p.m. on the last day of the fourth calendar month following the date the first installment is delinquent.

(c) If the taxes due are not paid on or before the date and time they become delinquent, a penalty of 10 percent shall attach to them.

(d) The cost enumerated in Section 2621 shall be collected after the second installment is delinquent.

SEC. 17.5. Section 75.53 of the Revenue and Taxation Code is amended to read:

75.53. If all delinquent amounts which are a lien on real property are not paid in full by the time fixed in the publication of the notice of intent to sell to the state next following the date of delinquency of the second installment of the supplemental taxes, the property shall be subject to the provisions of Section 3436.

SEC. 18. Section 75.54 of the Revenue and Taxation Code is amended to read:

75.54. (a) Taxes on the supplemental roll become a lien against the real property on the date of the change in ownership or completion of new construction unless by other provisions of law the taxes are not a lien on real property.

(b) With respect to taxes which are not a lien on real property that have become delinquent on the supplemental roll, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll for collection of the tax. If taxes which are not a lien on real property remain unpaid at the time set for sale to the state, following a delinquency in the payment of the second installment of the taxes, the taxes and any penalties and costs thereon shall be transferred to the unsecured roll for collection.

(c) Notwithstanding subdivision (a), in the event there is a subsequent change in ownership following an initial change in ownership or completion of new construction, which occurs before the mailing of the supplemental tax billing attributable to the initial change in ownership or completion of new construction, then the lien for supplemental taxes is extinguished and that portion of the supplemental assessment attributable to the assessee from the date of the initial change in ownership or completion of new construction to the date of the subsequent change in ownership shall be entered on the unsecured roll in the name of the person who would have been the assessee if the additional change in ownership had not occurred, and thereafter that portion of the tax shall be treated and collected like other taxes on the unsecured roll. The remaining portion of the supplemental tax attributable to the initial change in ownership

becomes a lien against the real property on the date of the subsequent change in ownership which lien shall also secure any increase or decrease in supplemental taxes resulting from the determination of the new base year value required to be made following the subsequent change in ownership.

SEC. 19. Section 75.55 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 75.60 of the Revenue and Taxation Code is amended to read:

75.60. Notwithstanding any other provision of law, for the 1983–84 and 1984–85 fiscal years, the county board of supervisors may direct the county auditor to allocate to the county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of this part and prior to the allocation made pursuant to Section 75.70, an amount not to exceed 5 percent of the additional revenues generated by the increased assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

SEC. 22. Section 75.70 of the Revenue and Taxation Code is amended to read:

75.70. (a) Notwithstanding any other provision of law, for the 1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding monthly or four-weekly accounting period.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each city within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding accounting period.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

(g) In the event property tax revenues under this chapter are generated by a change in ownership or completed new construction which occurred on or before May 31, 1984, but are collected subsequent to the 1983–84 fiscal year, the revenues shall be allocated to school districts as if they had been collected and allocated during this 1983–84 fiscal year. Any of the aforementioned revenues which are collected in the 1984–85 fiscal year shall be applied to school apportionments for the 1984–85 fiscal year.

SEC. 23. Section 75.72 is added to the Revenue and Taxation Code, to read:

75.72. Any penalties, costs, or other charges resulting from delinquency of supplemental taxes shall be distributed pursuant to Part 8 (commencing with Section 4651) of this division.

SEC. 24. Section 97.5 of the Revenue and Taxation Code is amended to read:

97.5. For the purpose of apportioning property tax revenues each fiscal year:

(a) The amount of property tax revenue allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97, modified by any adjustments made pursuant to Section 99, and subdivision (e) of Section 98, shall be combined to compute the total amount of property tax revenue allocated to the jurisdiction with respect to the tax rate area.

(b) The total amount of property tax revenue allocated to each jurisdiction with respect to all tax rate areas as determined pursuant to subdivision (a) shall be added to compute a total amount of property tax revenue for a jurisdiction in all tax rate areas.

(c) Each amount determined pursuant to subdivision (b) shall be divided by the total of all such amounts computed. The quotient determined shall be used to apportion actual property tax collections and shall be known as the "property tax apportionment factors."

(d) For 1980–81 and each year thereafter, the property tax apportionment factors for the current year shall be used to apportion the total amount paid to a county annually for reimbursement of tax loss from business inventory exemptions pursuant to Chapter 1150 of the Statutes of 1979.

(e) For 1980–81 and each year thereafter, prior years' property tax revenues shall be apportioned using the factors determined pursuant to subdivision (c) for the immediately preceding fiscal year.

(f) For 1979–80, prior years' property tax revenues shall be apportioned using the tax allocation factors computed pursuant to Section 26912 of the Government Code.

(g) Notwithstanding the provisions of this section property tax revenues may be apportioned by tax rate area.

(h) Supplemental property tax revenues for 1985–86 and each year thereafter, generated by Sections 75 to 75.80, inclusive, shall be apportioned using the property tax apportionment factors for the current year.

SEC. 25. Section 217.1 of the Revenue and Taxation Code is amended to read:

217.1. (a) Except as provided in subdivision (d), the following articles of personal property which have been made available for display in a publicly owned aerospace museum, or an aerospace museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Aircraft which have been restored or maintained, whether currently certified or not for flight purposes.

(2) Aircraft donated in perpetuity to the aerospace museum.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before, at the election of the claimant, either the assessor or a notary public. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the aerospace museum in which the property for which an exemption is claimed under this section was made available for display that the property was available for public display in the aerospace museum for the period specified in subdivision (e).

(c) For the 1984–85 assessment year and each assessment year thereafter, the provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any aircraft loaned by any person who holds aircraft primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the aerospace museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during

the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section, "regularly open to the public" means that the aerospace museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the aerospace museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period, the exemption may be granted if the director or other officer of the aerospace museum certifies in writing that the aerospace museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the date the aerospace museum was first opened.

(g) If a person certifies in writing that the property will be made available and the aerospace museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the aerospace museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

(h) The exemption provided by this section shall be applicable for the 1979–80 fiscal year and each fiscal year thereafter. With respect to property otherwise qualifying for the exemption provided by this section in the 1979–80 fiscal year to 1983–84 fiscal year, inclusive, any tax or penalty or interest thereon for those fiscal years shall be canceled if an appropriate claim for exemption has been filed on or before March 1, 1985.

SEC. 26. Section 5097 of the Revenue and Taxation Code is amended to read:

5097. (a) No order for a refund under this article shall be made, except on a claim:

(1) Verified by the person who paid the tax, his guardian, executor, or administrator.

(2) Filed within four years after making of the payment sought to be refunded or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, whichever is later.

(b) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he may thereafter and within the period provided in paragraph (2) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which applicant applied to have reduced pursuant to Section 1603 or Section 1604.

(c) If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to

which the escape relates within the period provided in paragraph (2) of subdivision (a) or within 60 days from the date the board of equalization makes its final determination on the application, whichever is later.

(d) An order for a refund under this article shall be made without any claim if a refund is ordered by a final decision of a court of competent jurisdiction, whether by a final decision of the Supreme Court or a court of appeal of this state or by judgment of the trial court becoming final and the taxes paid were either of the following:

(1) Erroneously or illegally collected.

(2) Illegally assessed or levied.

Refunds made in accordance with this subdivision on taxes paid shall include interest at the statutory rate for property tax refunds on the amount refunded. That interest shall be computed from the date the taxes were paid to the date of the court's judgment. After judgment, interest shall accrue at the statutory rate for judgments.

This subdivision shall be applicable only to refunds of property taxes levied by the City of Fresno. This subdivision shall be applicable only through June 30, 1986.

SEC. 27. Section 5097.2 of the Revenue and Taxation Code is amended to read:

5097.2. Notwithstanding the provisions of Sections 5096 and 5097, any taxes paid before or after delinquency may be refunded by the county tax collector or the county auditor, within four years after the date of payment, if:

(a) Paid more than once.

(b) The amount paid exceeds the amount due on the property as shown on the roll.

(c) The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations ordered by the board of supervisors after such taxes were paid.

(d) In any other case, where the claim for refund is made under penalty of perjury and is for an amount less than ten dollars ($10), with the written consent of the district attorney.

(e) The amount paid exceeds the amount due on the property as the result of a reduction attributable to a hearing before an assessment appeals board or an assessment hearing officer.

(f) A refund is ordered by a final decision of a court of competent jurisdiction, whether by a final decision of the Supreme Court or a court of appeal of this state or by judgment of trial court becoming final without any appeal, and the taxes paid were either of the following:

(1) Erroneously or illegally collected.

(2) Illegally assessed or levied.

Refunds made in accordance with this subdivision on taxes paid shall include interest at the statutory rate for property tax refunds on the amount refunded. That interest shall be computed from the date the taxes were paid to the date of the court's judgment. After judgment, interest shall accrue at the statutory rate for judgments.

This subdivision shall be applicable only to refunds of property taxes levied by the City of Fresno. This subdivision shall be applicable only through June 30, 1986.

SEC. 28. The amendments made to Section 75.52 of the Revenue and Taxation Code by this act shall be effective for supplemental assessments billed after the effective date of this act. In addition, any supplemental assessments billed pursuant to Section 75.52 of the Revenue and Taxation Code, as amended by this act, prior to its effective date, are hereby validated and declared to be legally effective.

SEC. 29. It is the intent of the Legislature in enacting Sections 26 and 27 of this act to alleviate the necessity of costly and burdensome filing and processing of claims for refunds in the event that a final decision of the courts requires the payment of refunds to assessees in connection with property taxes which were erroneously or illegally collected, or illegally assessed or levied.

SEC. 30. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section do not apply to the exemption of property for purposes of ad valorem property taxation provided by Section 217.1 of the Revenue and Taxation Code, as amended by this act. No appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 31. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code because Chapter 1102 of the Statutes of 1983 provided that 5 percent of the revenues collected from taxes on the supplemental roll, as well as ten million dollars ($10,000,000) appropriated to the Supplemental Roll Administrative Cost Fund, be used to reimburse counties for any increased costs resulting from the enactment of Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 32. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 33. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify and implement provisions relating to the supplemental assessment roll created pursuant to Chapter 498 of the Statutes of 1983 as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 947

An act to amend Sections 1346.5 and 1347 of the Health and Safety Code, to amend Section 1759 of, and to add Section 742 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 1346.5 of the Health and Safety Code is amended to read:

1346.5. If the commissioner determines that an entity purporting to be a health care service plan exempt from the provisions of Section 740 of the Insurance Code is not a health care service plan, the commissioner shall inform the Department of Insurance of that finding. However, if the commissioner determines that an entity is a health care service plan, the commissioner shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) of Section 740 of the Insurance Code, which are not subject to the jurisdiction of another agency of this or another state or the federal government and which the commissioner knows to be operating in the state. There shall be no liability of any kind on the part of the state, the commissioner, and employees of the Department of Corporations for the accuracy of the list or for any comments made with respect to it. Additionally, any solicitor or solicitor firm who advertises or solicits health care service plan coverage in this state described in subdivision (a) of Section 740 of the Insurance Code, which is provided by any person or entity described in subdivision (c) of that section, and where such coverage does not meet all pertinent requirements specified in the Insurance Code, and which is not provided or completely underwritten, insured or otherwise fully covered by a health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of plan coverage.

SEC. 2. Section 1347 of the Health and Safety Code is amended to read:

1347. (a) There is established in the Department of Corporations a Health Care Service Plan Advisory Committee consisting of 15 members. The members shall consist of the commissioner or the commissioner's designee; a physician and surgeon with five years' experience in providing services to enrollees of a health care service plan; a person with expertise and five years' experience in an administrative capacity of a hospital-based plan, a person with five years' experience with a corporation formed under

Section 9201 of the Corporations Code; a person with five years' experience with a non-hospital-based independent practice association; a person with expertise and five years' experience in a health care service plan which is a hospital-based independent practice association; a person with five years' experience in an administrative capacity with a non-hospital-based health care service plan; a person with five years' experience in an administrative capacity with a specialized health care service plan; a certified public accountant with five years' experience in auditing plans; and six public members having no financial interest in the delivery of health care services or in plans except for being enrolled in a health care service plan or specialized health care service plan.

The members shall be appointed by the commissioner for a term of three years, except that of the members first appointed, four shall serve for a term of one year and five shall serve for a term of two years, as designated by the commissioner.

The committee shall meet at least quarterly and at the call of the chairperson. The commissioner or the commissioner's designee shall be chairperson of the committee. The committee may establish its own rules and procedures. All members shall serve without compensation, but the six public members shall be reimbursed from department funds for expenses actually and necessarily incurred by them in the performance of their duties.

(b) The purpose of the committee is to assist and advise the commissioner in the implementation of the commissioner's duties under this chapter. The commissioner shall consult with the advisory committee on regulations and the recommendations of the committee shall be made a part of the record with regard to such regulations. The committee shall be given at least 45 days to review and comment on regulations prior to setting a notice of hearing for proposed regulations. Nothing in this subdivision prohibits the commissioner from promulgating urgency regulations pursuant to the provisions of the Administrative Procedure Act.

SEC. 3. Section 742 is added to the Insurance Code, to read:

742. (a) Any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric services, whether this coverage is by direct payment, reimbursement, or otherwise, and which enters into an arrangement or contract with, or underwrites, a preferred provider organization or arrangement subject to Section 10133 or 11512, is subject to the jurisdiction of the Department of Insurance.

(b) Any person or entity subject to regulation under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code shall not be subject to the provisions of this section.

SEC. 4. Section 1759 of the Insurance Code is amended to read:

1759. For purposes of this chapter, "administrator" means any person who collects any charge or premium from, or who adjusts or settles claims on, residents of this state in connection with life or

health insurance coverage or annuities or coverage described in Section 740 other than any of the following:

(a) An employer on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of that employer.

(b) A union on behalf of its members.

(c) An insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business or prepaid hospital or health care service plan (including their sales representatives licensed in this state when engaged in the performance of their duties).

(d) A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.

(e) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

(f) A trust, its trustees, agents, and employees acting thereunder, established in conformity with 29 U.S.C. Sec. 186.

(g) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code, its trustees, and employees acting thereunder, or a custodian, its agents and employees acting pursuant to a custodian account which meets the requirements of Section 401(f) of the Internal Revenue Code.

(h) A bank, credit union or other financial institution which is subject to supervision or examination by federal or state regulatory authorities.

(i) A company which advances for and collects any premium or charge from its credit card holders who have authorized it to do so, provided the company does not adjust or settle claims.

(j) A person who adjusts or settles claims in the normal course of his or her practice or employment as an attorney at law, and who does not collect any charge or premium in connection with life or health insurance coverage or annuities.

(k) An adjuster licensed by the Insurance Commissioner when engaged in the performance of his or her duties.

(*l*) A nonprofit agricultural association.

(m) Any person or entity subject to regulation under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to afford adequate time for the Health Care Service Plan Advisory Committee to review and comment on specified regulations, it is necessary that this act take effect immediately. Additionally, there are entities presently operating in this state which provide insurance coverage. However, these entities are not presently regulated. In order to protect the interests of consumers

in this state it is necessary that this act take effect immediately.

CHAPTER 948

An act to amend Section 48904 of the Education Code, relating to schools.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 48904 of the Education Code is amended to read:

48904. (a) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed seven thousand five hundred dollars ($7,500). The parent or guardian shall also be liable for the amount of any reward not exceeding seven thousand five hundred dollars ($7,500) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the district or private school authorized to make the demand.

The Superintendent of Public Instruction shall compute an adjustment of the liability limits prescribed by this subdivision at a rate equivalent to the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year.

(b) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).

The school district or private school shall notify the parent or

guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

CHAPTER 949

An act to amend Section 502 of the Penal Code, relating to computers.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. The Legislature recognizes that the computer has now become an integral part of society. Because of this pervasiveness, the Legislature recognizes the need to protect the rights of owners and legitimate users of computer systems, as well as the privacy interests of the general public, from those who abuse these systems.

The Legislature finds that with the increased availability and use of computers by private individuals and by both public and private sectors, there has been a corresponding increase in the incidence of misuse and intrusions by unauthorized individuals. In order to discourage "browsing," which has led to significant destruction of property and numerous instances of invasion of privacy, as well as to punish the more serious offenders, it is the intent of the Legislature to establish a range of penalties to correspond with the level of culpability of individuals who abuse computer systems.

In an effort to protect the rights of the general public and the rights of legitimate users of computer systems, the Legislature hereby declares its intent to establish sanctions against unauthorized intrusions into computer systems which are not intended for general public use or for which access is limited by the owner or lessee.

SEC. 2. Section 502 of the Penal Code is amended to read:

502. (a) For purposes of this section:

(1) "Access" means to instruct, communicate with, store data in, or retrieve data from, a computer system or computer network.

(2) "Computer system" means a device or collection of devices, excluding pocket calculators which are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs and data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(3) "Computer network" means an interconnection of two or more computer systems.

(4) "Computer program" means an ordered set of instructions or statements, and related data that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(5) "Data" means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared, in a formalized manner, and are intended for use in a computer system or computer network.

(6) "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof.

(7) "Property" includes, but is not limited to, financial instruments, data, computer programs, documents associated with computer systems and computer programs, or copies thereof, whether tangible or intangible, including both human and computer system readable data, and data while in transit.

(8) "Services" includes, but is not limited to, the use of the computer system, computer network, computer programs, or data prepared for computer use, or data contained within a computer system, or data contained within a computer network.

(b) Any person who intentionally accesses or causes to be accessed any computer system or computer network for the purpose of (1) devising or executing any scheme or artifice to defraud or extort, or (2) obtaining money, property, or services with false or fraudulent intent, representations, or promises, is guilty of a public offense.

(c) Any person who maliciously accesses or causes to be accessed any computer system or computer network for the purpose of obtaining unauthorized information concerning the credit information of another person or who introduces, or causes to be introduced, false information into that system or network for the purpose of wrongfully damaging or wrongfully enhancing the credit rating of any person is guilty of a public offense.

(d) Any person who maliciously accesses, alters, deletes, damages, destroys or disrupts the operation of any computer system, computer network, computer program, or data is guilty of a public offense.

(e) Any person who intentionally and without authorization accesses any computer system, computer network, computer program, or data, with knowledge that the access was not authorized,

shall be guilty of a public offense. This subdivision shall not apply to any person who accesses his or her employer's computer system, computer network, computer program, or data when acting within the scope of his or her employment.

(f) Any person who violates any provision of subdivision (b), (c), or (d), unless specified otherwise, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both such fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(g) (1) A first violation of subdivision (e) which does not result in injury is an infraction punishable by a fine not exceeding two hundred fifty dollars ($250).

(2) A violation of subdivision (e) which results in an injury, or a second or subsequent violation of subdivision (e) with no injury, is a misdemeanor punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(3) As used in this subdivision, "injury" means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was not altered, deleted, damaged, or destroyed by the access.

(h) In addition to any other civil remedy available, the owner or lessee of the computer system, computer network, computer program, or data may bring a civil action against any person convicted under this section for compensatory damages, including any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

In any action brought pursuant to this subdivision, the court may award attorney's fees to a prevailing plaintiff.

(i) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction.

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

eliminates a crime or infraction.

CHAPTER 950

An act to repeal and add Chapter 4 (commencing with Section 400) of Division 1 of the Water Code, relating to weather resources management.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Chapter 4 (commencing with Section 400) of Division 1 of the Water Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 400) is added to Division 1 of the Water Code, to read:

CHAPTER 4. WEATHER RESOURCES MANAGEMENT

Article 1. General Provisions

400. This chapter shall be known and may be cited as the California Weather Resources Management Act of 1984.

401. It is hereby declared that atmospheric water within the state which is caused to fall by weather resources management activities shall, for the purpose of water rights determinations, be considered as if it occurred as natural precipitation.

402. As used in this chapter:

(a) "Weather resources management" means attempting to produce by physical means any of the following: cloud water conversion, light adjustment, or weather hazard suppression. Weather resources management does not include agricultural frost protection or inadvertent weather modification.

(b) "Weather resources management project" or "project" means the performance of weather resources management with a specified purpose within a specified geographical area over a specified time interval.

Article 2. Notice of Intention

410. Before commencing a weather resources management project, the project operator shall file with the department and cause to be published a notice of intention.

411. The project operator shall cause the notice of intention to be published pursuant to Section 6063 of the Government Code in a newspaper having a general circulation and published within any county wherein the project is to be conducted and in which the

affected area is located, or, if the project is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then the notice shall be published in like manner in a newspaper having a general circulation and published within each of the counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county. The project operator shall also send the notice of intention to the boards of supervisors of counties to be affected by the project.

412. Proof of publication shall be by copy of the notice as published attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the notice.

Article 3. Reporting

420. The weather resources management project operator shall keep a record of all operations conducted, showing the equipment, the methods, the types, amounts, times, and places of seeding agents employed, a statement as to the estimated effect of the operation in relation to its intended purpose, and the name and address of each person participating or assisting in the operation. A report on the evaluation of project results shall be filed with the department within one year of the termination of a project or, in the case of an ongoing project, at least once every two years.

CHAPTER 951

An act to amend Sections 27610, 27641, 27802, and 27831 of the Health and Safety Code, relating to restaurants.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 27610 of the Health and Safety Code, as added by Chapter 256 of the Statutes of 1984, is amended to read:

27610. (a) Except as otherwise provided in subdivision (b), no live animal, bird, or fowl shall be kept or allowed in any food facility.

(b) Subdivision (a) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(c) Subdivision (a) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(d) The persons and operators described in subdivisions (b) and (c) are liable for any damage done to the premises or facilities by the dog.

(e) The dogs described in subdivisions (b) and (c) shall be excluded from food preparation and utensil wash areas. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

SEC. 2. Section 27641 of the Health and Safety Code, as added by Chapter 256 of the Statutes of 1984, is amended to read:

27641. Notwithstanding the provisions of this chapter, neither the state department nor any city, county, or city and county shall require the enclosure of an open-air barbecue facility if the appropriate enforcement officer determines that the barbecue facility meets all of the following requirements:

(a) The facility is operated on the same premises as, in reasonable proximity to, and in conjunction with, a food establishment.

(b) All food waste and rubbish containing food waste is handled in accordance with the requirements of Section 27608.

(c) The facility is operated in compliance with the provisions of Articles 6 (commencing with Section 27590) and 7 (commencing with Section 27600), except for Sections 27607, 27610, and 27613.

(d) The multiuse utensils and equipment used in conjunction with the open-air barbecue facility are made of nontoxic materials, are constructed and maintained in a manner so they can be easily cleaned, and are kept clean and in good repair.

(e) Food and beverages served out of doors are dispensed from units approved by the enforcement officer. No other food may be prepared or stored in the out of doors, except for food cooked on the open-air barbecue unit.

(f) (1) Except as otherwise provided in paragraph (2), no live animals, birds, or fowl shall be kept or allowed in an area within 20 feet of any area where food or beverage is prepared, stored, kept, or served. blind,

(2) Paragraph (1) does not prohibit the presence, in any area where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of

uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) Those persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(g) If the barbecue facility is a permanent structure, it is equipped with an impervious and easily cleaned floor surface that extends a minimum of five feet from the open-air barbecue facility on all open sides.

(h) The barbecue facility is located in an area reasonably protected from dust, as determined by the enforcement officer.

(i) The barbecue facility is not operated in, or out of, any motor vehicle or in any area or location that may constitute a fire hazard, as determined by the enforcement officer.

(j) Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet of the barbecue facility and shall comply with all provisions of this chapter. Sanitary facilities that do not meet the requirements of this chapter shall not be located closer to the barbecue facility than the sanitary facilities required to be provided by this section.

SEC. 3. Section 27802 of the Health and Safety Code, as added by Chapter 256 of the Statutes of 1984, is amended to read:

27802. (a) All food shall be prepared in a food establishment or on the premises of a temporary food facility. No food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a temporary food facility.

(b) All food and beverage shall be protected at all times from unnecessary handling and shall be stored, displayed and served so as to be protected from contamination.

(c) Potentially hazardous food and beverage shall be maintained at or below 7 degrees Celsius (45 degrees Fahrenheit) or at or above 60 degrees Celsius (140 degrees Fahrenheit) at all times.

(d) Ice used in beverages shall be protected from contamination and shall be maintained separate from ice used for refrigeration purposes.

(e) All food and food containers shall be stored off the floor on shelving or pallets located within the facility.

(f) Smoking is prohibited in temporary food facilities.

(g) (1) Except as provided in paragraph (2), live animals, birds, or fowl shall not be kept or allowed in temporary food facilities.

(2) Paragraph (1) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs

accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(4) The persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(5) The dogs described in paragraphs (2) and (3) shall be excluded from food preparation and utensil wash areas. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

(h) All garbage shall be disposed of in a manner approved by the enforcement officer.

(i) Employees preparing or handling food shall wear clean clothing and shall keep their hands clean at all times.

SEC. 4. Section 27831 of the Health and Safety Code, as added by Chapter 256 of the Statutes of 1984, is amended to read:

27831. Certified farmers' markets shall meet the provisions of Article 6 (commencing with Section 27590) and, in addition, shall meet all of the following requirements:

(a) All food shall be stored at least 15 centimeters (6 inches) off the floor or ground or under any other conditions which are approved.

(b) Food preparation is prohibited.

(c) Approved toilet and handwashing facilities shall be available within 60 meters (200 feet) of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) (1) Except as provided in paragraph (2), no live animals, birds, or fowl shall be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale.

(2) Paragraph (1) does not prohibit the presence, in any area where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while those

employees are acting within the course and scope of their employment as private patrol persons.

(4) Those persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(e) All garbage and rubbish shall be stored, and disposed of, in a manner approved by the enforcement officer.

SEC. 5. This act shall not become operative unless Chapter 256 of the Statutes of 1984 becomes effective and operative on January 1, 1985.

CHAPTER 952

An act to amend Section 853.6 of the Penal Code, relating to offenses.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 853.6 of the Penal Code is amended to read:

853.6. (a) In any case in which a person is arrested for an offense declared to be a misdemeanor, including violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter. If the person is released, the officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time and place where and when the person shall appear in court. If, pursuant to subdivision (i), the person is not released prior to being booked and the officer in charge of the booking or his or her superior determines that the person should be released, the officer or superior shall prepare a written notice to appear in a court.

(b) Unless waived by the person, the time specified in the notice to appear must be at least 10 days after arrest if the duplicate notice is to be filed by the officer with the magistrate.

(c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by that court to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall immediately release the person

arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice, as follows:

(1) It shall be filed with the magistrate if the offense charged is an infraction.

(2) It shall be filed with the magistrate if the prosecuting attorney has previously directed the officer to do so.

(3) The duplicate notice and underlying police reports in support of the charge or charges shall be filed with the prosecuting attorney in cases other than those specified in paragraphs (1) and (2).

If the duplicate notice is filed with the prosecuting attorney, he or she, within his or her discretion, may initiate prosecution by filing the notice or a formal complaint with the magistrate specified therein within 25 days from the time of arrest. If the prosecution is not to be initiated, the prosecutor shall send notice to the person arrested at the address on the notice to appear. The failure by the prosecutor to file the notice or formal complaint within 25 days of the time of the arrest shall not bar further prosecution of the misdemeanor charged in the notice to appear; however, any further prosecution shall be preceded by a new and separate citation or an arrest warrant.

Upon the filing of the notice with the magistrate by the officer, or the filing of the notice or formal complaint by the prosecutor, the magistrate may fix the amount of bail which in his or her judgment, in accordance with the provisions of Section 1275, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by him or her in the form set forth in Section 815a. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his or her discretion order that no further proceedings shall be had in such case, unless the defendant has been charged with violation of Section 374b or 374e of this code or of Section 11357, 11360, or 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he or she has previously been convicted of a violation of that section or a violation which is punishable under that section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463.

(f) No warrant shall issue on such charge for the arrest of a person who has given such a written promise to appear in court, unless and until he or she has violated that promise or has failed to deposit bail,

to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

(g) The officer may either book the arrested person, as defined in subdivision 21 of Section 7, prior to release or indicate on the citation that the arrested person shall be booked. In the event it is indicated on the citation that the arrested person is to be booked, the magistrate shall, before the proceedings are finally concluded, order the defendant to be booked by the arresting agency.

(h) A peace officer shall use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the officer has arrested a person without a warrant pursuant to Section 836 or in which he or she has taken custody of a person pursuant to Section 847.

(i) Whenever any person is arrested by a peace officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for nonrelease, in which case the arresting officer may release the person, or the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the nonrelease:

(1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.

(2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.

(3) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.

(4) There were one or more outstanding arrest warrants for the person.

(5) The person could not provide satisfactory evidence of personal identification.

(6) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by immediate release of the person arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

The form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him or her for custody before trial.

CHAPTER 953

An act to amend Sections 69899.5 and 74001.5 of the Government Code, relating to courts.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 69899.5 of the Government Code is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint the following officers and employees whose monthly salaries shall be:

Number of Positions	Title	Salary Range
1	Account Clerk II	D34
2	Account Clerk III	D39
1	Administrative Services Assistant II—Superior Court	E60
2	Assistant Superior Court Executive Officer	E69
1	Court Information Clerk	D32
1	Court Services Division Supervisor	D52
2	Executive Secretary to the Presiding Judge	D47
1	Family Conciliation Court Supervisor	A64
6	Family Court Mediator	A60
1	Jury Payroll Clerk	D34
1	Jury Services Supervisor	D52
1	Juvenile Court Coordinator	A55
5	Legal Research Attorney III	A69
1	Master Calendar Assistant	D41
3	Master Calendar Clerk	D36
1	Master Calendar Coordinator	D55
1	Probate Court Coordinator	A61
3	Probate Examiner II	A55
1	Probate Examiner III	A57
3	Probate Investigator	A51
1	Probate Secretary	D44
1	Secretary I	D35
7	Senior Judicial Secretary	D43
2	Stenographer Clerk II	D35
1	Store Clerk	D38
8	Superior Court Commissioner	85% of salary of Superior Court Judge
1	Supervising Account Clerk	D47

1	Supervising Judicial Secretary	D46
1	Supervising Legal Research Attorney	A73
1	Systems Analyst IV	A64
7	Typist Clerk II	D32

The references to a numbered salary range in this section are to the salary schedule in the salary resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion.

With the approval of the board of supervisors, the majority of the judges may establish such additional titles and pay rates as are required, and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees, except those of court commissioners, may be adjusted by joint action and approval of the board of supervisiors and a majority of the judges of the court.

All personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation when separated from the service, inclusion in the retirement system of the County of Orange and other benefits as may be directed by rules adopted by a majority of the judges as are provided to county employees of such county.

Only those holidays specified in Section 6700 of the Government Code as may be amended by action of the Orange County Board of Supervisors and Section 134 of the Code of Civil Procedure, are paid holidays for court officers and employees.

Superior court commissioners shall be entitled to such benefits as may be directed by rules adopted by the majority of the judges.

Where statutes require implementation by local ordinances for the extension of such benefits to local officers and employees, these may be made applicable, by rule, to such employees.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the judges such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

SEC. 2. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the West Orange County Judicial District may appoint two court commissioners, who shall have the additional powers and duties prescribed by Section 259a of the Code of Civil Procedure, insofar as they are applicable to the municipal court, and the judges of the South Orange County Judicial District, the Central Orange County Judicial District, the Orange County Harbor Judicial District, and the North Orange County Judicial District may appoint one court commissioner for each district.

Such an appointment of a second court commissioner by the judges of the West Orange County Judicial District or by the judges of the South Orange County Judicial District, or of a court commissioner by the judges of the Orange County Harbor Judicial District or by the judges of the North Orange County Judicial District, may only be made in lieu of appointing a traffic trial commissioner pursuant to Section 72450. The commissioners shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioners shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioners shall not engage in the private practice of law.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 954

An act to amend and repeal Section 341 of the Health and Safety Code, relating to genetically handicapped persons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 341 of the Health and Safety Code is amended to read:

341. The director shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, Friedreich's Ataxia, Joseph's disease and the following hereditary metabolic disorders:

(a) Phenylketonuria, homocystinuria, branched chain amino acidurias, disorders of propionate and methylmalonate metabolism, urea cycle disorders, hereditary orotic aciduria, Wilson's disease, Glactosemia, disorders of lactate and pyruvate metabolism, Tyrosinemia, Hyperomithinemia, and other genetic organic acidemias which require specialized treatment or service available from only a limited number of program-approved sources.

(b) Persons with the hereditary metabolic disorders specified in subdivision (a) who were eligible to receive services under the California Children's Services Program pursuant to Article 2 (commencing with Section 248) but having attained age 21 are no longer eligible to receive these services shall be eligible to receive care under this article.

The program shall also provide access to social support services, which may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions, in order that the genetically handicapped person may function at an optimal level commensurate with the degree of impairment.

The medical and social support services may be obtained through physicians, genetically handicapped person's program specialized centers, and other providers that qualify pursuant to the regulations of the department to provide the services. "Medical care," as used in this section, shall be limited to noncustodial medical and support services.

The director, with the guidance of the Advisory Committee on Genetically Handicapped Person's Program may, by regulation, expand the list of genetically handicapping conditions covered under this article. The director shall adopt rules and regulations necessary for the implementation of this article. The director, with the approval of the advisory committee, shall establish priorities for the use of funds and the provision of services under this article.

(c) This section shall remain in effect only until January 1, 1988, and as of this date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 341 of the Health and Safety Code, as amended by Chapter 1155 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. The State Department of Health Services shall study the effect, including the cost-effectiveness, of the amendments made by

this act to Section 341 of the Health and Safety Code which add additional disorders to the Genetically Handicapped Person's Program for medical care of persons with certain genetic conditions and shall report the results of that study to the Legislature on or before December 31, 1986.

SEC. 3. The Legislature finds and declares that the intent of the amendments made to Section 341 of the Health and Safety Code by this act is to ensure that certain persons having the specifically enumerated genetically handicapped conditions who are no longer eligible to receive services under the California Children's Services Program, having attained age 21, will continue to receive medical care for their genetically handicapping condition. Since some individuals have no coverage under existing law, having attained age 21, it is imperative for these changes to be made.

SEC. 4. The sum of twenty-two thousand dollars ($22,000) is appropriated from the General Fund to the State Department of Health Services for purposes of funding the provisions of this act for the 1984–85 fiscal year. It is the intent of the Legislature to provide funding for fiscal years subsequent to the 1984–85 fiscal year in the annual Budget Act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that persons who have attained age 21 who have certain specifically enumerated genetically handicapping conditions, for which medical care was provided under the California Children's Services Program until age 21, may continue to receive medical care for their condition, it is necessary that this act take effect immediately.

CHAPTER 955

An act to amend Sections 2502, 2503, 2510, and 2512 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 2502 of the Vehicle Code is amended to read:

2502. (a) Except as otherwise provided in this section, each application for a new or renewal license shall be accompanied by a fee of ten dollars ($10) for a new license or five dollars ($5) for a renewal license. This subdivision does not apply to licenses for transportation of hazardous material or operation of ambulances.

(b) Each application for a new or renewal license for the operation of ambulances shall be accompanied by a fee not to exceed two hundred dollars ($200) for a new license or one hundred fifty dollars ($150) for a renewal license.

(c) Except as provided in subdivision (d), each application for a new or renewal license to transport hazardous material shall be accompanied by a fee of not to exceed one hundred dollars ($100) for a new license and not to exceed seventy-five dollars ($75) for a renewal license.

(d) The fee for an application for a new or renewal license to transport hazardous material shall be waived for hazardous waste haulers registered with the State Department of Health Services pursuant to Section 25163 of the Health and Safety Code.

A hazardous waste hauler issued a license pursuant to this subdivision may haul hazardous materials which are not hazardous wastes if the vehicle has been inspected by the California Highway Patrol pursuant to Section 25168.1 of the Health and Safety Code and certified by the State Department of Health Services pursuant to Section 25168.3 of the Health and Safety Code.

(e) Each application shall be made upon a form furnished by the commissioner. It shall contain such information concerning the applicant's background and experience as the commissioner may prescribe, in addition to other information required by law.

(f) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 2. Section 2503 of the Vehicle Code is amended to read:

2503. (a) Licenses issued by the commissioner shall not be transferable. Any change in ownership or control of the licensed activity shall require a new license. A change in ownership or control includes, but is not limited to, the addition or deletion of a partner, transfer of ownership between family members, change in corporate status, or a stock transfer of shares possessing more than 50 percent of the voting power of the corporation.

(b) In the event of a change of name, not involving a change of ownership or control, the license shall be returned to the commissioner for cancellation, and a new license application form shall be submitted. The commissioner shall cancel the returned license and issue a new license for the unexpired term without fee.

(c) In the event of loss, destruction, or mutilation of a license issued by the commissioner, the person to whom it was issued may obtain a duplicate upon paying a fee of five dollars ($5). Any person who loses a license issued by the commissioner and who, after obtaining a duplicate, finds the original license shall immediately surrender the original license to the commissioner.

(d) Any change of address or relocation of a licensed service shall be reported to the commissioner within 10 days.

SEC. 3. Section 2510 of the Vehicle Code is amended to read:

2510. (a) A person applying for a license to operate ambulances

or armored cars shall provide separate identification data and reports of inspection for each vehicle as prescribed by the commissioner.

(b) No person shall operate a privately owned emergency ambulance or armored car until the California Highway Patrol has determined that the vehicle is in compliance with this code and regulations adopted by the commissioner. Ambulances licensed by the department shall be inspected by the department not less often than once annually.

SEC. 4. Section 2512 of the Vehicle Code is amended to read:

2512. (a) The commissioner, after consultation with, and pursuant to the recommendations of, the Emergency Medical Service Authority and the Department of Motor Vehicles, shall adopt and enforce reasonable regulations as the commissioner determines are necessary for the public health and safety regarding the operation, equipment, and certification of drivers of all ambulances used for emergency services. The regulations shall not conflict with standards established by the Emergency Medical Service Authority pursuant to Section 1797.170 of the Health and Safety Code. The commissioner shall exempt, upon request of the county board of supervisors that an exemption is necessary for public health and safety, noncommercial ambulances operated within the county from the regulations adopted under this section as are specified in the board of supervisors' request. The Emergency Medical Service Authority shall be notified by the county boards of supervisors of any exemptions. The commissioner may, with the consent of the Director of Motor Vehicles, authorize the director to administer any regulations adopted pursuant to this section which relate to the issuance, suspension, or revocation of ambulance drivers' certificates, to charge a fee of twelve dollars ($12) for issuance of the certificate, and, in the administration thereof, to exercise the powers granted to the commissioner by this section.

(b) This section shall not preclude the adoption of more restrictive regulations by local authorities, except that inspection of ambulances pursuant to subdivision (c) of Section 1210 shall not be duplicated by local authorities. It is the intent of the Legislature that regulations adopted by the commissioner pursuant to this section shall be the minimum necessary to protect public health and safety, and shall not be so restrictive as to preclude compliance by ambulances operated in sparsely populated areas. The provisions of this subdivision shall not relieve the owner or driver of any ambulance from compliance with Section 21055.

(c) The Department of the California Highway Patrol shall prepare, and make available for purchase, an ambulance driver's handbook.

CHAPTER 956

An act to amend Section 61623 of, and to add Section 6502.5 to, the Government Code, to amend Section 55507 of the Water Code, and to amend Sections 201 and 710 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), relating to resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 6502.5 is added to the Government Code, to read:

6502.5. In addition to any power common to its member districts, the Resource Conservation Energy Joint Powers Agency has the authority to finance, construct, install, and operate projects for the production of biogas and electricity from the digestion or fermentation of animal or agricultural waste. The agency may undertake these projects within its jurisdiction or outside its jurisdiction. The authority to undertake projects outside the jurisdiction of the agency is limited to the geographical areas of Fresno, Kings, Madera, Merced, San Joaquin, and Tulare Counties.

Prior to undertaking a project authorized by this section outside the jurisdiction of the agency, the agency shall obtain approval of the board of supervisors of the county in which the project is to be located.

SEC. 2. Section 61623 of the Government Code is amended to read:

61623. A district having power to own or operate a water system may contract with any person or private corporation of any kind or with any city, county, district, municipal corporation, political subdivision, public corporation, or other public agency of the state, or with the United States or any department, instrumentality, or agency thereof, to purchase or acquire from, or to sell to, or jointly to acquire, construct, operate, or maintain a water system or water supply to serve their inhabitants.

Notwithstanding any other provisions of law, a district may incur a long-term debt obligation without the necessity of obtaining voter approval, by entering into a loan assumption agreement whereby it agrees to assume the obligation of the users or owners of the water system or water supply to make loan payments to the United States or any department, instrumentality, or agency thereof, in exchange for or as part of the purchase price of that water system or water supply.

SEC. 3. Section 55507 of the Water Code is amended to read:

55507. A district may fix a sewer service standby or immediate

availability charge to be applied on a parcel basis within the district to be charged to the parcels to which sewer service is made available by the district, whether the sewer service is actually used or not. The district may establish schedules for the charge, and may restrict the charge to lands lying within one or more zones or areas of benefits established within the district. The district may not, however, except as is otherwise provided in this section, fix a charge in excess of thirty dollars ($30) a year for a residential parcel. Commercial or other parcels shall be charged according to equivalent residential parcels, but shall not exceed thirty dollars ($30) per acre per year.

The maximum charge which may be fixed by the district may be increased from one fiscal year to the next by the same percentage increase as reflected by the Consumer Price Index, as issued by the United States Bureau of Labor Statistics, relative to the immediately preceding fiscal year.

The district may collect the standby or availability charge by billing the charged lands on a fiscal year basis or by other means available.

The district may collect the standby or availability charge as a part of the annual general county tax bill if the district furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed, together with the amount of the charge applicable to each parcel, in sufficient time to meet the schedule established by the county for inclusion of those items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In that case, the standby or availability charge shall become a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby or availability charge, or the amount thereof unpaid, in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. All laws applicable to the levy, collection, and enforcement of municipal ad valorem taxes are applicable to those charges, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the charge relating to the property shall be transferred to the unsecured roll for collection.

If the district collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

SEC. 4. Section 201 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984) is amended to read:

Sec. 201. For the purposes of this act, the boundaries of the Pajaro

Valley Water Management Agency are as follows:

(a) The northern boundary of the agency is as follows:

Commencing at the Pacific Ocean and the most southerly boundary of the Soquel Creek County Water District and beginning at a point at the intersection of the south boundary of county road by deed recorded in Volume 294 of Official Records, Page 211, Santa Cruz County Records; that point being also at the mean high water line as shown and delineated on Record of Survey filed in Book 33 of Maps, Page 81, Santa Cruz County Records; thence from that point of beginning along the south boundary of that county road N. 77° 46′ 50″ E. 179.76 to Station One as shown on that map; thence S. 29° 29′ 44″ E. 946.39 feet to the northwest corner of Tract 295, Place De Mer, Unit No. 1, as shown on the map filed for record in Volume 37 of Maps, Page 52, Santa Cruz Records; thence along the north. boundary of that tract North 86° 33′ 26″ E. 537.60 feet to a station; thence along a curve to the left having a radius of 100.00 feet, through a central angle of 65° 05′, an arc distance of 113.59 feet; thence N. 21° 28′ 26″ E. 247.42 feet to a station; thence along a curve to the left having a radius of 20.00 feet, through a central angle of 84° 54′ 06″ an arc distance of 29.64 feet to a point on the south boundary of San Andreas Road; thence northeasterly 70.00 feet more or less to the southeast corner of the lands of Bruce McBain by deed recorded in Volume 1787 of Official Records, Page 374, Santa Cruz County Records; thence along the east boundary of those lands of McBain produced N. 21° 30′ 40″ E. 480 feet (scaled) to a station on the north boundary of the Southern Pacific Railroad; thence along the northerly boundary of the Southern Pacific Railroad in a northwesterly direction to its intersection with a line, from which Station No. 28 on the centerline of San Andreas Road, as shown on the Map of Tract No. 1, La Selva Beach, filed January 26, 1936, in Map Book 26, Page 2, Santa Cruz County Records, bears N. 6° 45′ E.; thence N. 6° 45′ E. 1100′ (scaled) to Station No. 28; thence N. 3° 15′ E. 511.50 feet to Station No. 29; thence N. 46° 30′ E. 259.38 feet; thence leaving the San Andreas Road S. 80° 30′ E. 198.00 feet; thence N. 61° 30′ E. 591.36 feet to a station; thence N. 89° E. 353.10 feet to a gate post; thence N. 52° 15′ E. 755.04 feet to a stake from which an oak tree bears N. 12° E. 40.92 feet distant; thence N. 18° W. 233.64 feet to a station; thence N. 48° 30′ W. 264.00 feet to a station; thence N. 44° E. 2072.40 feet to a station; thence S. 51° E. 842.16 feet to a station in the Watertank Road; thence northeasterly along Watertank Road to and across State Highway Route 56-D (Highway 1) to the northeasterly line of State Highway Route 56-D; thence along the northeasterly line of State Highway Route 56-D to its intersection near Freedom Boulevard with the southerly boundary of the Central Water District (formerly called the Central Santa Cruz County Water District); thence easterly along the southerly boundary of the Central Water District to and across Freedom Boulevard to Pleasant Valley Road; thence along Pleasant Valley Road and the boundary of the Central Water District to the point where the Central Water District

boundary leaves Pleasant Valley Road in an easterly direction; thence following the Central Water District boundary easterly, northerly, and westerly to Pleasant Valley Road; thence northerly along the easterly line of Pleasant Valley Road to the southwest corner of land of Billye L. Heath as described in the deed recorded on December 21, 1965, in Volume 1736, Page 155 Official Records of Santa Cruz County; thence easterly along the southerly boundary of the land of Billye L. Heath, which is also a boundary of the Central Water District, and continuing along the easterly boundary of Central Water District to most northeasterly point (Y) of the Central Water District; thence continuing on the extension of the easterly course of the boundary of the Central Water District which passes through point Y to the point of its intersection with the southerly line of Section 2, T. 11 S. R. 1 E., M. D. B. & M.; thence easterly along the south line of Section 2 to the east line of Section 2, then north along the east line of Section 2 and of Section 36, T. 10 S, R. 1 E., M. D. B. & M., to the north line of Section 36; thence east along the north line of Section 36, and 31 and 32, T. 10 S., R. 2 E., M. D. B. & M.; thence southerly along the easterly line of Section 32 to the south line of Section 32; thence east along the projection of the south line of Section 32 to Hazel Dell Road; thence southerly along Hazel Dell Road to Gaffey Road; thence southeasterly along Gaffey Road to Hecker Pass Road (State Route 152); thence northerly along Hecker Pass Road to the Santa Cruz County line; thence southerly along the Santa Cruz County line to the intersection of the Santa Cruz County line with the San Benito County line; thence northwesterly along the Santa Cruz County line to Carpenteria Road.

(b) The southern and eastern boundary of the agency is as follows:

Beginning at a point on the high water line of Monterey Bay, Monterey County, California, that point being also the most southwesterly corner of Lot 1, Block 261, Book 133, Page 26, Assessor's Map, County of Monterey, thence along the southerly line of that Lot 1 easterly to the southeasterly corner of that Lot 1; thence in a direct line easterly to the Lot 3, Block 23 as shown in Book 413, Page 2, Assessors Map, County of Monterey; along the southerly line of that Lot 3 easterly to the southeasterly corner of that Lot 3, that corner being also the westerly right-of-way boundary line of State Highway No. 1; thence crossing that state highway easterly to the most southwesterly corner of Lot 4, Block 23 as shown in Book 413, Page 2, Assessors Map, County of Monterey, that corner being also the easterly right-of-way of that state highway; thence along the southerly boundary line of that Lot 4, northeasterly to the most southeasterly corner of that Lot 4, that corner being also the most southwesterly corner of Lot 2, Block 41, Book 413, Page 4, Assessors Map, County of Monterey; thence along the southeasterly boundary line of that Lot 2 northeasterly to the most northeasterly corner of that Lot 2, that corner being also a point on the southerly boundary of Lot 13, Block 14, Book 413, Page 1, Assessors Map, County of Monterey; thence northwesterly to the southeast corner of Lot 14,

Block 14, Book 413, Page 1, Assessors Map, County of Monterey; thence along the easterly boundary of said Lot 14 northerly to the northeasterly corner of that Lot 14, that corner being also the most southeasterly corner of Lot 4, Block 23, Book 412, Page 2, Assessors Map, County of Monterey, that corner also being the westerly bank of Elkhorn Slough; thence along the westerly bank of Elkhorn Slough northwesterly and northeasterly to the intersection of that westerly bank with the westerly right-of-way line of Elkhorn Road, a county road; thence crossing that county road along a direct line easterly to the easterly right-of-way of that County Road; thence along the easterly line of that county road southeasterly to the intersection of that county road right-of-way line and the southerly boundary of Lot 5, Block 22, Book 412, Page 2, Assessors Map, County of Monterey; thence along the southerly boundary of that Lot 5 easterly to the most southeasterly corner of that Lot 5, that corner being also a point on the southwesterly boundary of Lot 19, Block 11, Book 181, Page 1, Assessors Map, County of Monterey; thence along the southerly boundary line of that Lot 19 easterly to the most southeasterly corner of that Lot 19, that corner being also a point on the westerly line of Lot 4, Block 11, Book 181, Page 1, Assessors Map, County of Monterey; thence along the northerly boundary of Lot 4 and westerly boundary of Lot 5, Book 181, Page 1, Assessors Map, County of Monterey, northerly and southeasterly to the southeasterly corner of that Lot 5; thence along a direct line southeasterly to the most southwesterly corner of Lot 12, Block 11, Book 181, Page 1, Assessors Map, County of Monterey; thence along the southerly boundary of Lots 12 and 13, Block 11, Book 181, Page 1, of that map; southeasterly to the most southeasterly corner of that Lot 13, that corner being also the most westerly corner of Lot 14, Block 151, Book 129, Page 15, Assessors Map, County of Monterey; thence along the southerly boundary of Lots 14 and 15, Block 151, of that map southeasterly to the most southeasterly corner of that Lot 15, that corner being also the most northwesterly corner of Lot 1, Block 161, Book 129, Page 16, Assessors Map, County of Monterey; thence along the northerly boundary line of Lots 1, 2, 31, 37, 38, 5, 22, 23, 34, 35, 36, 28, and 30 southeasterly to the most northeasterly corner of that Lot 30; thence in a direct line southeasterly to a point on the easterly right-of-way line of San Miguel Canyon Road, a county road, that point being also the most southerly corner of Lot 19, Block 252, Book 127, Page 25, Assessors Map, County of Monterey; thence along the easterly boundary line of Lots 19, 82, and 83 of that map northeasterly to the most northeasterly corner of that Lot 83, that corner being also the southerly right-of-way line of Maher Road, a county road; thence in a direct line northeasterly to a point on the northerly right-of-way line of that Maher Road, that point being also the most southwesterly corner of Lot 10, Block 101, Book 181, Page 10, Assessors Map, County of Monterey; thence along the southerly boundary line of Lots 10 and 1 of that map westerly to the most easterly corner of that Lot 1, that corner being also a point on the westerly boundary of Lot 1, Block

22, Book 181, Page 22, Assessors Map, County of Monterey; thence along the westerly boundary of that Lot 1 northerly to the most northerly corner of that Lot 1, that corner being also the southwesterly corner of Lot 6, Block 131, Book 181, Page 13, Assessors Map, County of Monterey; thence along the westerly boundary of Lots 6 and 5 of that map northwesterly to the most northwesterly corner of that Lot 5, that corner being also the most southwesterly corner of Lot 15, Block 121, Book 181, Page 12, Assessors Map, County of Monterey; thence northerly along the westerly boundary of that Lot 15 to the northwesterly corner of that Lot 15, that corner being the most southwesterly corner of Lot 1 of that map, thence along the southerly boundary of that Lot 1 easterly to the southeasterly corner of that Lot 1; thence along the easterly boundary of that Lot 1 northerly to the intersection of that easterly boundary with the centerline of San Juan Road, a county road; thence along the centerline of that county road northeasterly to the intersection with the centerline Carpenteria Road, a county road; thence along the centerline of that county road northeasterly to the intersection of that centerline with the southerly boundary of the Aromas Water District; thence along the boundary of that district northeasterly and westerly to its intersection with the centerline of Carpenteria Road; thence along the centerline of that road northerly to the intersection of that road with the Santa Cruz County line.

SEC. 5. Section 710 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984) is amended to read:

Sec. 710. The agency may purchase and import water into the agency subject to subdivisions (d), (f), and (g) of Section 102, except that no water shall be imported into the agency for other than agricultural purposes. This limitation to agricultural use of imported water shall not apply to lands within the Aromas County Water District.

SEC. 6. The Legislature finds and declares that Section 1 of the act is necessary as a special statute since a general statute cannot be made to apply. The Legislature finds that the Resource Conservation Energy Joint Powers Agency, whose member agencies include resource conservation districts, proposes to conduct projects to convert animal or agricultural waste to energy. The agency has been requested by farm owners and businesses located outside the agency's jurisdiction to be included in the program. Therefore, it is necessary that the agency be authorized to undertake these projects outside its jurisdiction.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There are currently farms and businesses in jeopardy of going into bankruptcy which will be benefited from participating in projects to convert animal wastes to energy. In order to allow the Resource Conservation Energy Joint Powers Agency to undertake these

projects as soon as possible, and in order to provide for the sound management of the groundwater resources of the Pajaro Valley Water Management Agency at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 957

An act to amend Sections 1852, 1876.1, 1876.9, 3354, 3355, 3356, 33051, 33560, and 33568 of, and to repeal Section 1933 of, the Financial Code, relating to financial institutions.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 1852 of the Financial Code is amended to read:

1852. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this chapter:

(a) "Agent" means any person authorized by a licensee to sell travelers checks in this state on behalf of such licensee.

(b) "Business day" means any day other than Saturday, Sunday or any other day which is specified or provided for as a holiday in the Government Code.

(c) "Eligible security" has the meaning set forth in subdivision (a) of Section 1876.1.

(d) (1) "Foreign currency" means any currency other than United States currency.

(2) "Foreign currency," when used with respect to any travelers check, means a travelers check which is denominated in a foreign currency.

(e) "Licensee" means a person duly licensed by the superintendent pursuant to this chapter to issue travelers checks.

(f) "Outstanding travelers checks" means travelers checks sold in the United States and reported to licensee.

(g) (1) "Payment instrument" means:

(A) Any instrument (whether or not negotiable) for the transmission or payment of money which is designated on its face by the term "money order" or by any substantially similar term; or

(B) Any check, draft, or other instrument (whether or not negotiable) for the transmission or payment of money, if sold to a natural person and payable on demand.

(2) Notwithstanding the provisions of subparagraph (B) of paragraph (1) of this subdivision, "payment instrument" does not include:

(A) Any travelers check;

(B) Any credit card voucher;

(C) Any letter of credit; or

(D) Any instrument which is redeemable by the issuer in goods or services.

(h) "Person" means any individual, partnership, unincorporated association, or corporation.

(i) "Superintendent" means the Superintendent of Banks.

(j) "Travelers check" means an instrument for the payment of money which:

(1) Is designated on its face by the term "travelers check" or by any substantially similar term or is commonly known and marketed as a travelers check by a corporation licensed as an issuer of travelers checks in this state on or prior to January 1, 1978, and not also by the term "money order" or by any substantially similar term;

(2) (A) If issued in United States currency, is in the sum of ten dollars ($10) or a whole multiple thereof, if less than one hundred dollars ($100), or in the sum of one hundred dollars ($100) or a whole multiple thereof;

(B) If issued in any foreign currency, is in an even denomination of such currency;

(3) Contains a provision for a specimen signature of the purchaser to be completed at the time of purchase, and

(4) Contains a provision for a countersignature of the purchaser to be completed at the time of negotiation.

(k) "United States currency", when used with respect to any travelers check, means a travelers check which is denominated in United States currency.

SEC. 2. Section 1876.1 of the Financial Code is amended to read:

1876.1. In this article:

(a) "Eligible security" means any United States currency eligible security or foreign currency eligible security.

(b) "Eligible securities rating service" means any securities rating service which the superintendent has by regulation or order declared to be an eligible securities rating service pursuant to Section 1876.5.

(c) "Eligible rating", when used with respect to any security or class of securities and any eligible securities rating service, means any rating assigned to such security or class of securities by such eligible securities rating service which the superintendent has by regulation or order declared to be an eligible rating pursuant to Section 1876.6.

(d) "Foreign currency eligible security" means any of the following which is, or is denominated in, a foreign currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 1876.3.

(1) Any of the following which is of comparable quality to the United States currency eligible securities specified in paragraphs (1) to (7), inclusive, of subdivision (e):

(A) Cash.

(B) Any deposit in an office of a bank located in a foreign country.

(C) Any bond, note, or other obligation.

(2) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 1876.4.

(e) "Insured bank" means any bank the deposits of which are insured by the Federal Deposit Insurance Corporation. However, "insured bank" does not include any office of a foreign (other nation) bank, as defined in Section 1700, other than an office which is insured by the Federal Deposit Insurance Corporation.

(f) "Insured savings and loan association" means any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(g) "United States currency eligible security" means any of the following which is, or is denominated in, United States currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 1876.3.

(1) Cash.

(2) Any deposit in an insured bank or an insured savings and loan association.

(3) Any bond, note, or other obligation which is issued or guaranteed by the United States or by any agency of the United States.

(4) Any bond, note, or other obligation which is issued or guaranteed by any state of the United States or by any governmental agency of or within any state of the United States and which is assigned an eligible rating by an eligible securities rating service.

(5) Any bankers acceptance which is eligible for discount by a federal reserve bank.

(6) Any commercial paper which is assigned an eligible rating by an eligible securities rating service.

(7) Any bond, note, or other obligation or preferred stock which is assigned an eligible rating by an eligible securities rating service.

(8) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 1876.4.

(9) Any account due to any licensee from any agent of such licensee on account of the sale by such agent of travelers checks issued by the licensee, which the superintendent has by order declared to be an eligible security for the licensee pursuant to Section 1876.7.

(h) "Value" means:

(1) When used with respect to an eligible security owned by a licensee which consists of an account due to such licensee from an agent of the licensee on account of the sale by such agent of travelers checks issued by the licensee which the superintendent has declared to be an eligible security for the licensee pursuant to Section 1876.7, net carrying value as determined in conformity with generally accepted accounting principles;

(2) When used with respect to any other eligible security owned by a licensee:

(A) In case the practice and policy of such licensee is to hold eligible securities to maturity, net carrying value as determined in conformity with generally accepted accounting principles;

(B) In any other case, market value.

SEC. 3. Section 1876.9 of the Financial Code is amended to read:

1876.9. (a) In computing for purposes of Section 1876.8 the aggregate value of eligible securities owned by a licensee, there shall be excluded the value of any eligible security if and to the extent that the value of such eligible security, when combined with the aggregate value of all other eligible securities owned by such licensee which are issued or guaranteed by the same person or by any affiliate of the same person by whom such eligible security is issued or guaranteed, exceeds 10 percent of the aggregate value of all eligible securities owned by the licensee.

(b) Subdivision (a) shall not be deemed to require the exclusion of the value of any of the following eligible securities, and each of the following eligible securities shall be exempted from the limitations of subdivision (a):

(1) The following United States currency eligible securities:

(A) Cash.

(B) Any deposit in an insured bank or an insured savings and loan association.

(C) Any bond, note, or other obligation for the payment of which the full faith and credit of the United States are pledged.

(2) Any eligible security which the superintendent, in view of the financial condition of the obligor or issuer and such other factors as may in the opinion of the superintendent be relevant, finds to be of such quality that exclusion of the value of such eligible security pursuant to subdivision (a) is not necessary for the purposes of this division and which the superintendent by regulation or order exempts from the limitations of subdivision (a).

SEC. 4. Section 1933 of the Financial Code is repealed.

SEC. 5. Section 3354 of the Financial Code is amended to read:

3354. (a) In this section, "subject person," when used with respect to a bank, means any director or officer of the bank, any controlling person of the bank, or any director or officer of a controlling person of the bank. For purposes of this subdivision, "controlling person" has the meaning set forth in subdivision (c) of Section 700.

(b) No bank shall purchase any real or personal property or any interest in real or personal property, including but not limited to a leasehold, or any contract arising from the sale of real or personal property or any note or bond in which any subject person of such bank is personally or financially interested, directly or indirectly, for such person's own account, for such person, or as the partner or agent of others, without first obtaining the written consent of the superintendent.

SEC. 6. Section 3355 of the Financial Code is amended to read:

3355. (a) In this section, "subject person" has the meaning set

forth in subdivision (a) of Section 3354.

(b) No subject person of a bank shall purchase, directly or indirectly, or be interested in the purchase of, any of the bank's assets for an amount less than the then current market value thereof. Every person violating this section shall be liable to the people of this state, for each offense, for twice the market value of the assets so purchased.

SEC. 7. Section 3356 of the Financial Code is amended to read:

3356. (a) In this section, "subject person" has the meaning set forth in subdivision (a) of Section 3354.

(b) No subject person of a bank shall purchase, directly or indirectly, or be interested in the purchase of any of the bank's obligations or assets for an amount less than the book value thereof, unless all the directors of such bank previously approve such purchase by resolution, and a copy of such resolution is transmitted to the superintendent immediately after adoption. Every person violating this section shall be liable to the people of the state, for each offense, for twice the face value of the assets so purchased.

SEC. 8. Section 33051 of the Financial Code is amended to read:

33051. "Insured bank" means any bank the deposits of which are insured by the Federal Deposit Insurance Corporation. However, "insured bank" does not include any office of a foreign (other nation) bank, as defined in Section 1700, other than an office which is insured by the Federal Deposit Insurance Corporation.

SEC. 9. Section 33560 of the Financial Code is amended to read:

33560. In this article:

(a) "Eligible security" means any United States currency eligible security or foreign currency eligible security.

(b) "Eligible securities rating service" means any securities rating service which the superintendent has by regulation or order declared to be an eligible securities rating service pursuant to Section 33564.

(c) "Eligible rating", when used with respect to any security or class of securities and any eligible securities rating service, means any rating assigned to such security or class of securities by such eligible securities rating service which the superintendent has by regulation or order declared to be an eligible rating pursuant to Section 33565.

(d) "Foreign currency eligible security" means any of the following which is, or is denominated in, a foreign currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 33562:

(1) Any of the following which is of comparable quality to the United States currency eligible securities specified in paragraphs (1) to (7), inclusive, of subdivision (f):

(A) Cash.

(B) Any deposit in an office of a bank located in a foreign country.

(C) Any bond, note, or other obligation.

(2) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible

securities pursuant to Section 33563.

(e) "Reported outstanding payment instrument", when used with respect to a licensee, means:

(1) Any payment instrument issued by the licensee which has been sold directly by the licensee and which has not yet been paid by the licensee; or

(2) Any payment instrument issued by the licensee which has been sold by an agent of the licensee, which has been reported by such agent to the licensee as having been sold (such report having been received by the licensee), and which has not yet been paid by the licensee.

(f) "United States currency eligible security" means any of the following which is, or is denominated in, United States currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 33562:

(1) Cash.

(2) Any deposit in an insured bank or an insured savings and loan association.

(3) Any bond, note, or other obligation which is issued or guaranteed by the United States or by any agency of the United States.

(4) Any bond, note, or other obligation which is issued or guaranteed by any state of the United States or by any governmental agency of or within any state of the United States and which is assigned an eligible rating by an eligible securities rating service.

(5) Any bankers acceptance which is eligible for discount by a federal reserve bank.

(6) Any commercial paper which is assigned an eligible rating by an eligible securities rating service.

(7) Any bond, note, or other obligation or preferred stock which is assigned an eligible rating by an eligible securities rating service.

(8) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 33563.

(9) Any account due to any licensee from any agent of such licensee on account of the sale by such agent of payment instruments issued by the licensee, which the superintendent has by order declared to be an eligible security for the licensee pursuant to Section 33566.

(g) "Value" means:

(1) When used with respect to an eligible security owned by a licensee which consists of an account due to such licensee from an agent of the licensee on account of the sale by such agent of payment instruments issued by the licensee which the superintendent has declared to be an eligible security for the licensee pursuant to Section 33566, net carrying value as determined in conformity with generally accepted accounting principles;

(2) When used with respect to any other eligible security owned by a licensee:

(A) In case the practice and policy of such licensee is to hold eligible securities to maturity, net carrying value as determined in conformity with generally accepted accounting principles;

(B) In any other case, market value.

SEC. 10. Section 33568 of the Financial Code is amended to read:

33568. (a) In computing for purposes of Section 33567 the aggregate value of eligible securities owned by a licensee, there shall be excluded the value of any eligible security if and to the extent that the value of such eligible security, when combined with the aggregate value of all other eligible securities owned by such licensee which are issued or guaranteed by the same person or by any affiliate of the same person by whom such eligible security is issued or guaranteed, exceeds 10 percent of the aggregate value of all eligible securities owned by the licensee.

(b) Subdivision (a) shall not be deemed to require the exclusion of the value of any of the following eligible securities, and each of the following eligible securities shall be exempted from the limitations of subdivision (a):

(1) The following United States currency eligible securities:

(A) Cash.

(B) Any deposit in an insured bank or an insured savings and loan association.

(C) Any bond, note, or other obligation for the payment of which the full faith and credit of the United States are pledged.

(2) Any eligible security which the superintendent, in view of the financial condition of the obligor or issuer and such other factors as may in the opinion of the superintendent be relevant, finds to be of such quality that exclusion of the value of such eligible security pursuant to subdivision (a) is not necessary for the purposes of this division and which the superintendent by regulation or order exempts from the limitations of subdivision (a).

CHAPTER 958

An act to amend Sections 5116, 6650, 6752, 6801, 6802, 6803, 6805, 6854, 6900, and 6951 of, to amend the heading of Article 6 (commencing with Section 6800) of Chapter 5 of Division 2 of, and to add Section 6662 to, the Financial Code, relating to savings associations.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 5116 of the Financial Code is amended to read:

5116. "Savings account" means that part of the savings liability of

an association that is credited to the holder of the account. A savings account may be referred to as a deposit. For the purposes of Section 6661 and Article 4 (commencing with Section 6725) through Article 10 (commencing with Section 7000), inclusive, of Chapter 5 of this division, the term "savings account" includes shares, demand accounts, savings deposits and other savings accounts of federal associations.

SEC. 2. Section 6650 of the Financial Code is amended to read:

6650. As used in Sections 6655, 6656, 6657, and 6659:

(a) "Account" means withdrawable or repurchasable shares, investment certificates, deposits or savings accounts as defined in Section 561.11 of Title 12 of the Code of Federal Regulations or in regulations promulgated pursuant to Section 3502 of Title 12 of the United States Code, pursuant to which the account holder from time to time may make deposits and effect withdrawals and as to which the address shown on the records of the association is within the United States or its territories.

(b) "Account holder" means a person who is identified on the signature card for an account, or in the absence of a signature card, a person who has an interest in an account which is reflected on the records of the association for that account to whom statements of account or other notices are normally given, or the agent of such person.

(c) "Charges" means those charges which an association may, from time to time, impose on an account in the normal course of business in the operation of the account and, does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the account holder.

(2) Charges or amounts required to be disclosed to the depositor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226.1, et seq.), as amended.

SEC. 3. Section 6662 is added to the Financial Code, to read:

6662. Nothing in this chapter shall prohibit an association or federal association from issuing tenancy in common, community property, and other types of savings accounts authorized by law.

SEC. 4. Section 6752 of the Financial Code is amended to read:

6752. (a) In the case of a minor, the receipt, acquittance, pledge, or other action required by the association or federal association to be taken by the minor shall be binding upon the minor with like effect as if the minor were of full age and legal capacity.

(b) Except under subdivision (c), the parent or guardian of the minor shall not have the power to attach or transfer any savings account issued to or in the name of the minor, provided that a parent or guardian of a minor aged 13 or less may require, by written notice delivered to the office where the account is maintained, that the signatures of both the minor and the parent or guardian be required for withdrawals from the account.

(c) In the event of the death of a minor the receipt or acquittance of either parent, guardian, or foster parent of the minor is a sufficient

discharge of the association or federal association for any sums not exceeding in the aggregate two thousand five hundred dollars ($2,500) unless the minor has given written notice to the association or federal association to accept the signature of the parent, guardian or foster parent to withdraw a greater amount.

SEC. 5. The heading of Article 6 (commencing with Section 6800) of Chapter 5 of Division 2 of the Financial Code is amended to read:

Article 6. Joint Tenancy Accounts

SEC. 6. Section 6801 of the Financial Code is amended to read:

6801. The moneys in a joint tenancy account may be paid to or on the order of any one of the joint tenants during their lifetimes or to or on the order of any one of the survivors of them after the death of any one or more of them, subject to the provisions of Section 14345 of the Revenue and Taxation Code. An association or federal association continues to have the power to change the tenancy of a joint tenancy account on the written instructions of any one of the joint tenants during their lifetimes or on the written instructions of any one of the survivors of them after the death of any one or more of them.

SEC. 7. Section 6802 of the Financial Code is amended to read:

6802. The opening of a joint tenancy account shall be conclusive evidence in any action or proceeding to which either the association or federal association or the survivor or survivors is a party, of the intention of all of the parties to the account to vest title to the account and the additions to it in the survivor or survivors.

SEC. 8. Section 6803 of the Financial Code is amended to read:

6803. (a) By written instructions given to the association or federal association at the office where the account is maintained by all the parties to a joint tenancy account, the signatures of more than one of the joint tenants during their lifetimes or of more than one of the survivors after the death of any one of them may be required on any check, receipt, record change order, or withdrawal order, in which case the association or federal association shall pay the moneys in the account only in accordance with the instructions, but no instructions shall limit the right of the survivor or survivors to receive the moneys in the account.

(b) Payment of all or any of the moneys in the account as provided in this article shall discharge the association or federal association from liability with respect to the moneys so paid, prior to receipt by the association or federal association of a written notice from any one of the joint tenants directing the association or federal association not to permit withdrawals in accordance with the terms of the account or the instructions. After receipt of the notice an association or federal association may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.

(c) Rights of the parties may be determined under subdivision (b) by any one of the following:

(1) Decree by a court.

(2) A written agreement signed by each of the joint tenants, setting forth their respective rights.

(3) A written revocation of the notice made under subdivision (b), signed by the joint tenant that made it.

SEC. 9. Section 6805 of the Financial Code is amended to read:

6805. The pledge or hypothecation to any association or federal association of all or part of a joint tenancy account signed by any one or more tenants, whether minor or adult, upon whose signature or signatures withdrawals may be made from the account shall, unless the terms of the account provide specifically to the contrary, be a valid pledge and transfer to the association or federal association of that part of the account pledged or hypothecated, and shall not operate to sever or terminate the joint and survivorship tenancy of all or any part of the account.

SEC. 10. Section 6854 of the Financial Code is amended to read:

6854. (a) As used in this section, "pay-on-death provision" means:

(1) A provision or term of a savings account which is in the name of one person, which provides that upon the death of that person the savings account shall become the property of one or more designated payees.

(2) A provision or term of a savings account which is in the name of two or more persons which provides that upon the death of all of such persons the savings account shall become the property of one or more designated payees.

(b) Any transfer of property to the designated payee or payees pursuant to the terms of a pay-on-death provision shall be given effect under the terms of the savings account and shall not be deemed to be a testamentary disposition of property. The right of the designated payee or payees to receive such property shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(c) Except as provided in Section 6661, the association shall make payment in accordance with the pay-on-death provision, and such payment shall discharge the association from liability with respect to the moneys so paid.

SEC. 11. Section 6900 of the Financial Code is amended to read:

6900. If an association or federal association has received no written notice and is not on actual notice that the savings account holder has been adjudicated incompetent, it may pay or deliver funds to the account holder in accordance with the provisions of the savings account contract, and the receipt or acquittance of the holder shall be a sufficient release of that association or federal association for the payment or delivery.

SEC. 12. Section 6951 of the Financial Code is amended to read:

6951. No action at law or in equity shall be maintained against an association or federal association for payment made in accordance with this article.

CHAPTER 959

An act to amend Section 92032 of the Education Code, relating to the University of California.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 92032 of the Education Code is amended to read:

92032. Notwithstanding any provision of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) The Regents of the University of California may, as occasioned by necessity, hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to any newspaper of general circulation, or any television or radio station, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to satisfy the provisions of this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when it meets to consider or discuss:

(1) Matters affecting the national security.

(2) The conferring of honorary degrees or other honors or commemorations.

(3) Matters involving gifts, devises, and bequests.

(4) Matters involving the purchase or sale of investments for endowment and pension funds.

(5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.

(6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions it deems to be in the best public interest.

(7) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or

employees, excluding individual regents other than the president of the university.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

(d) Committees of the regents may conduct closed sessions on Medi-Cal contract negotiations.

(e) The nominating committee of the regents may conduct closed sessions held for the purpose of proposing officers of the board and members of the board's various committees.

(f) Committees of the regents may conduct closed sessions held for the purpose of proposing a student regent.

(g) The regents shall not be required to give public notice of meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions.

CHAPTER 960

An act to add Section 25205.1 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 25205.1 is added to the Health and Safety Code, to read:

25205.1. (a) The department shall, by regulation, establish a schedule of fees for the filing, reissuance, and continuance of a hazardous waste facilities permit and for the continuance of a grant of interim status, based upon the hazardous waste facility's size, the volume and type of hazardous waste handled at the facility, the hydrogeologic and location characteristics of the facility, and the type of facility. The department shall not impose these fees upon any hazardous waste facility which is owned by, leased to, or under the control of, and solely used by, a county, city, or district. In establishing the fee schedule, the department shall set the fees in an amount sufficient to fund, but not to exceed, the actual and reasonable costs of administering this article and shall use the following guidelines:

(1) Each applicant for a hazardous waste facilities permit shall be assessed a fee which does not exceed ten thousand dollars ($10,000).

(2) Each applicant for a permit reissuance shall be assessed a fee

which does not exceed five thousand dollars ($5,000). Permit reissuance includes the renewal of an expiring permit or the reissuance of a permit when a major facility modification occurs prior to the expiration of the permit.

(3) Each holder of a hazardous waste facilities permit or a grant of interim status shall be assessed a yearly permit or interim status continuance fee which does not exceed one thousand dollars ($1,000), on or before July 1 of each year, commencing July 1, 1985.

(4) The department shall not refund a fee for a permit application or reissuance.

(b) In addition to any fees imposed pursuant to Section 25174, an applicant for a hazardous waste facilities permit, and the holder of a hazardous waste facilities permit or a grant of interim status, shall pay the fee established by the department pursuant to subdivision (a).

(c) The department shall deposit all fees received pursuant to this section into the Hazardous Waste Control Account.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 961

An act to amend Sections 2910, 3416, 4016.5, 6253, and 6263 of the Penal Code, relating to corrections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 2910 of the Penal Code is amended to read:

2910. (a) The Director of Corrections may enter into an agreement with a city, county, or city and county, to permit transfer of prisoners in the custody of the Director of Corrections to a jail or other adult correctional facility of the city, county, or city and county, if the sheriff or corresponding official having jurisdiction over the facility has consented thereto. The agreement shall provide for contributions to the city, county, or city and county toward payment of costs incurred with reference to such transferred prisoners.

(b) When an agreement entered into pursuant to subdivision (a) is in effect with respect to a particular local facility, the Director of Corrections may transfer prisoners whose terms of imprisonment

have been fixed to the facility.

(c) Prisoners so transferred to a local facility may, with approval of the Director of Corrections, participate in programs of the facility, including work furlough rehabilitation programs.

(d) Prisoners transferred to such facilities are subject to the rules and regulations of the facility in which they are confined, but remain under the legal custody of the Department of Corrections and shall be subject at any time, pursuant to the rules and regulations of the Director of Corrections, to be detained in the county jail upon the exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5, with the consent of the sheriff or corresponding official having jurisdiction over the facility.

SEC. 2. Section 3416 of the Penal Code is amended to read:

3416. (a) If any woman received by or committed to the Department of Corrections has a child under six years of age, or gives birth to a child while an inmate under the jurisdiction of the Department of Corrections, the child and his or her mother shall, upon her request, be admitted to and retained in a community treatment program established by the Department of Corrections, subject to the provisions of this chapter.

(b) Women transferred to community treatment programs remain under the legal custody of the department and shall be subject at any time, pursuant to the rules and regulations of the Director of Corrections, to be detained in the county jail upon the exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5, with the consent of the sheriff or corresponding official having jurisdiction over the facility.

SEC. 3. Section 4016.5 of the Penal Code is amended to read:

4016.5. A city or county shall be reimbursed by the Department of Corrections for costs incurred resulting from the detention of state prisoners or parolees and from parole revocation proceedings when the detention meets any of the following conditions:

(a) The detention relates to a violation of the conditions of parole or the rules and regulations of the Director of Corrections and does not relate to a new criminal charge.

(b) The detention is pursuant to (1) an order of the Board of Prison Terms under the authority granted by Section 3060, or (2) an order of the Governor under the authority granted by Section 3062 or (3) an exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5.

(c) Security services and facilities are provided for hearings which are conducted by the Board of Prison Terms to revoke parole.

Such reimbursement shall be expended for maintenance, upkeep, and improvement of jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of reimbursement authorized by this section. The net reimbursement shall be calculated and paid monthly by the department. The

department shall withhold all or part of the net reimbursement to a county whose jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 only if the county is failing to make reasonable efforts to correct differences, with consideration given to the resources available for those purposes.

"Costs incurred resulting from the detention," as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

SEC. 4. Section 6253 of the Penal Code is amended to read:

6253. (a) The Director of Corrections may transfer inmates whose terms of imprisonment have been fixed from the state prisons and facilities of the Department of Corrections to community correctional centers, and place parolees in the community correctional centers. The director may charge the resident reasonable fees, based on ability to pay, for room, board and so much of the costs of administration as are allocable to such resident. Fees may not exceed actual, demonstrable costs to the department. No fees shall be collected from an inmate or parolee after his or her residency in the center has terminated.

Notwithstanding any other provision of law, no inmate or parolee shall be denied placement in a community correctional center on the basis of inability to pay fees authorized by this section.

(b) Inmates transferred to community correctional centers remain under the legal custody of the department and shall be subject at any time, pursuant to the rules and regulations of the Director of Corrections, to be detained in the county jail upon the exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5, with the consent of the sheriff or corresponding official having jurisdiction over the facility.

SEC. 5. Section 6263 of the Penal Code is amended to read:

6263. (a) The Department of Corrections shall deny placement in a reentry work furlough program if it determines that an inmate would pose an unreasonable risk to the public, or if any one of the following factors exist, except in unusual circumstances, including, but not limited to, the remoteness in time of the commission of the offense:

(1) Conviction of a crime involving sex or arson.

(2) History of forced escape, or of drug use, sales, or addiction.

(3) Parole program or employment outside the area served by the facility.

(4) History of serious institutional misconduct.

(5) Prior placement in a protective housing unit within a correctional institution, except a person placed there while assisting a public entity in a civil or criminal matter.

(6) More than one conviction of a crime of violence.

(b) Nothing in this section shall be interpreted to limit the discretion of the Department of Corrections to deny placement

when the provisions of subdivision (a) do not apply.

(c) Inmates transferred to reentry work furlough remain under the legal custody of the department and shall be subject at any time, pursuant to the rules and regulations of the Director of Corrections, to be detained in the county jail upon the exercise of a state parole or correctional officer's peace officer powers as specified in Section 830.5, with the consent of the sheriff or corresponding official having jurisdiction over the facility.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the reimbursement provided by this act to be applicable for the remainder of the 1983–84 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 962

An act to amend Sections 17282, 24436.1, and 26451.3 of, to add Sections 18910, 19285.5, 26192, 26453.2, and 26453.5 to, to repeal Section 26453b of, and to repeal and add Sections 19283, 19285, and 26453 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 17282 of the Revenue and Taxation Code is amended to read:

17282. (a) In computing taxable income, no deductions (including deductions for cost of goods sold) shall be allowed to any taxpayer on any of his or her gross income directly derived from illegal activities as defined in Sections 266h or 266i of, or in Chapter 4 (commencing with Section 211) of Title 8 of, Chapter 7.5 (commencing with Section 311) of Title 9 of, Chapter 8 (commencing with Section 314) of Title 9 of, or Chapter 2 (commencing with Section 459), Chapter 5 (commencing with Section 484), or Chapter 6 (commencing with Section 503) of Title 13 of, Part 1 of the Penal Code, or as defined in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code; nor shall any deductions be allowed to any taxpayer on any of his or her gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, those illegal activities.

(b) A prior, final determination by a court of competent jurisdiction of this state in any criminal proceedings or any proceeding in which the state, county, city and county, city, or other

political subdivision was a party thereto on the merits of the legality of the activities of a taxpayer or predecessor in interest of a taxpayer shall be binding upon the Franchise Tax Board and the State Board of Equalization.

(c) This section shall be applied with respect to taxable years which have not been closed by a statute of limitations, res judicata, or otherwise.

SEC. 2. Section 18910 is added to the Revenue and Taxation Code, to read:

18910. Whenever property is levied upon by warrant pursuant to Section 18906, the reasonable costs associated with the sale of that property, including, but not limited to, appraisers' fees, auctioneers' fees, and advertising fees are an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant or in any other manner provided in this part for the collection of tax.

SEC. 3. Section 19283 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 19283 is added to the Revenue and Taxation Code, to read:

19283. A return or return information may be disclosed in a judicial or administrative proceeding pertaining to or related to tax administration, if—

(a) The taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability with respect to any tax imposed under this part; or

(b) The treatment of an item reflected on the return is directly related to the resolution of an issue in the proceeding; or

(c) The return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

SEC. 5. Section 19285 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 19285 is added to the Revenue and Taxation Code, to read:

19285. In a matter involving or related to tax administration under this part, a return or return information shall be open to inspection by the Attorney General or other legal representatives of the state, if—

(a) The taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability with respect to any tax imposed under this part; or

(b) The treatment of an item reflected on the return is related to the resolution of an issue in the proceeding or investigation; or

(c) The return or return information relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer, which affects or may affect, the resolution of an issue

in the proceeding or investigation.

In addition, the Attorney General may inspect any report or return required under this part when required in the enforcement of any public or charitable trust or in compelling adherence to any charitable purposes for which any nonprofit corporation is formed.

SEC. 7. Section 19285.5 is added to the Revenue and Taxation Code, to read:

19285.5. For purposes of Sections 19283 and 19285:

(a) The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this part or Part 11 (commencing with Section 23001) which is filed with the Franchise Tax Board by, on behalf of, or with respect to any person, corporation, estate, or trust, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(b) The term "return information" means a taxpayer's identity, the nature, source, or amount of his, her, or its income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Franchise Tax Board with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of any person under this part or Part 11 (commencing with Section 23001) for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.

(c) The term "taxpayer return information" means return information as defined in subdivision (b) which is filed with, or furnished to, the Franchise Tax Board by or on behalf of the taxpayer to whom the return information relates.

(d) The term "tax administration" means the administration, management, conduct, direction, and supervision of the execution and application of the Revenue and Taxation Code or related statutes.

SEC. 8. Section 24436.1 of the Revenue and Taxation Code is amended to read:

24436.1. (a) In computing net income, no deductions (including deductions for cost of goods sold) shall be allowed to any taxpayer on any of its gross income directly derived from illegal activities as defined in Sections 266h or 266i of, or in Chapter 4 (commencing with Section 211) of Title 8 of, Chapter 7.5 (commencing with Section 311) of Title 9 of, Chapter 8 (commencing with Section 314) of Title 9 of, or Chapter 2 (commencing with Section 459), Chapter 5 (commencing with Section 484), or Chapter 6 (commencing with Section 503) of Title 13 of, Part 1 of the Penal Code, or as defined in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code; nor shall any deductions be allowed to any

taxpayer on any of its gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, those illegal activities.

(b) A prior, final determination by a court of competent jurisdiction of this state in any criminal proceedings or any proceeding in which the state, county, city and county, city, or other political subdivision was a party thereto on the merits of the legality of the activities of a taxpayer or predecessor in interest of a taxpayer shall be binding upon the Franchise Tax Board and the State Board of Equalization.

(c) This section shall be applied with respect to income years which have not been closed by a statute of limitations, res judicata, or otherwise.

SEC. 9. Section 26192 is added to the Revenue and Taxation Code, to read:

26192. Whenever property is levied upon by warrant pursuant to Section 26191, the reasonable costs associated with the sale of that property, including, but not limited to, appraisers' fees, auctioneers' fees, and advertising fees are an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant or in any other manner provided in this part for the collection of tax.

SEC. 10. Section 26451.3 of the Revenue and Taxation Code is amended to read:

26451.3. (a) If an organization is exempt from taxation under Section 23701 for any taxable year, the application filed by the organization with respect to which the Franchise Tax Board made its determination that the organization was entitled to exemption under Section 23701, together with any papers submitted in support of such application, and any letter or other document issued by the Franchise Tax Board, with respect to the application, shall be open to public inspection. Any inspection under this subdivision may be made at such times, and in such manner, as the Franchise Tax Board shall by regulations prescribe. After the application of any organization has been opened to public inspection under this subdivision, the Franchise Tax Board shall, on the request of any person with respect to the organization, furnish a statement indicating the section which it has been determined describes the organization.

(b) Upon request of the organization submitting any supporting papers described in subdivision (a), the Franchise Tax Board shall withhold from public inspection any information contained therein which it determines relates to any trade secret, patent, process, style of work, or apparatus, of the organization, if it determines that public disclosure of the information would adversely affect the organization. The Franchise Tax Board shall withhold from public inspection any information contained in supporting papers described in subdivision (a) the public disclosure of which it determines would adversely affect the national defense.

(c) The Franchise Tax Board may impose a reasonable charge for

supplying any information the disclosure of which is permitted under this section.

SEC. 11. Section 26453 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 26453 is added to the Revenue and Taxation Code, to read:

26453. A return or return information may be disclosed in a judicial or administrative proceeding pertaining to or related to tax administration, if—

(a) The taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability with respect to any tax imposed under this part; or

(b) The treatment of an item reflected on the return is directly related to the resolution of an issue in the proceeding; or

(c) The return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding.

SEC. 13. Section 26453b of the Revenue and Taxation Code is repealed.

SEC. 14. Section 26453.2 is added to the Revenue and Taxation Code, to read:

26453.2. In a matter involving or related to tax administration under this part, a return or return information shall be open to inspection by the Attorney General or other legal representatives of the state, if—

(a) The taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability with respect to any tax imposed under this part; or

(b) The treatment of an item reflected on the return is or may be related to the resolution of an issue in the proceeding or investigation; or

(c) The return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer, which affects or may affect, the resolution of an issue in the proceeding or investigation.

In addition, the Attorney General may inspect any report or return required under this part when required in the enforcement of any public or charitable trust or in compelling adherence to any charitable purposes for which any nonprofit corporation is formed.

SEC. 15. Section 26453.5 is added to the Revenue and Taxation Code, to read:

26453.5. For purposes of Sections 26453 and 26453.2:

(a) The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this part or Part 10 (commencing with Section 17001) which is filed with the

Franchise Tax Board by, on behalf of, or with respect to any person, corporation, estate or trust, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

(b) The term "return information" means a taxpayer's identity, the nature, source, or amount of his, her, or its income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Franchise Tax Board with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of any person under this part or Part 10 (commencing with Section 17001) for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.

(c) The term "taxpayer return information" means return information as defined in subdivision (b) which is filed with, or furnished to, the Franchise Tax Board by or on behalf of the taxpayer to whom the return information relates.

CHAPTER 963

An act to amend Sections 69994.2, 70047.1, 73483, 73484, 73485, 73486, 73487, 73489, 73706, 73710, 73713, 74192, 74193, 74194, 74195, 74201, 74783, 74784, 74785, 74803, 74804, 74806, 74807, and 74808 of the Government Code, relating to courts.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 69994.2 of the Government Code is amended to read:

69994.2. The regular official phonographic reporters shall be compensated at an annual salary of thirty-two thousand one hundred ninety-six dollars ($32,196), except that such reporters may be employed at an annual salary of twenty-six thousand six hundred twenty-eight dollars ($26,628) for the first year of service, at an annual salary of twenty-seven thousand nine hundred sixty dollars ($27,960) for the second year of service, at an annual salary of twenty-nine thousand two hundred eight dollars ($29,208) for the third year of service, and at an annual salary of thirty thousand six hundred seventy-two dollars ($30,672) for the fourth year of service. The judges of the superior and municipal courts of such county, a majority concurring, may appoint a supervising phonographic reporter at an annual salary of thirty-five thousand four hundred

twelve dollars ($35,412), except that such reporter may be employed at an annual salary of thirty-two thousand one hundred twelve dollars ($32,112) for the first year of service and at an annual salary of thirty-three thousand seven hundred twenty dollars ($33,720) for the second year of service.

SEC. 2. Section 70047.1 of the Government Code is amended to read:

70047.1. In Stanislaus County, the duties of official reporters shall be performed as elsewhere provided by law. As full compensation for taking notes in criminal cases in the superior court each reporter shall receive a monthly salary of one thousand seven hundred seventy-eight dollars ($1,778), pro tempore reporters shall receive seventy-five dollars ($75) per diem, or any fractional part thereof, for reporting criminal matters, and the fee for reporting testimony and proceedings in civil contested cases is one hundred ten dollars ($110) a day, or any fractional part thereof, and for the purposes of retirement, the compensation of each reporter shall be deemed to be the total of all per diem and transcription fees paid by the county to all of the reporters of the superior court for all phonographic reporting services, divided by the number of superior court official reporters, plus his salary. All other fees of such reporters shall be as elsewhere provided by law. In cases where it is necessary to appoint a pro tempore reporter, he shall be allowed the fees elsewhere provided by law.

The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Such changes in compensation made pursuant to this provision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the Legislature unless ratified at such session.

SEC. 3. Section 73483 of the Government Code is amended to read:

73483. The clerk may appoint:

(a) Two (2) deputy clerks IV.

(b) Two (2) deputy clerks III.

(c) Three (3) deputy clerks II.

(d) Five (5) deputy clerks I.

SEC. 4. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 59.25 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 5. Section 73485 of the Government Code is amended to read:

73485. The marshal may appoint:

(a) Three (3) deputy marshals.

(b) One (1) clerk-typist II.

(c) One (1) clerk-typist I.

(d) One (1) senior deputy marshal.

SEC. 6. Section 73486 of the Government Code is amended to read:

73486. The following biweekly salary schedule shall apply to persons employed in the clerk's office and marshal's office:

Salary range number	Steps A	B	C	D	E
31	298.40	313.60	329.60	346.40	364.00
32	313.60	329.60	346.40	364.00	382.40
33	329.60	346.40	364.00	382.40	401.60
34	346.40	364.00	382.40	401.60	421.60
35	364.00	382.40	401.60	421.60	442.40
36	382.40	401.60	421.60	442.40	464.80
37	401.60	421.60	442.40	464.80	488.00
38	421.60	442.40	464.80	488.00	512.80
39	442.40	464.80	488.00	512.80	538.40
40	464.80	488.00	512.80	538.40	565.60
41	488.00	512.80	538.40	565.60	593.60
42	512.80	538.40	565.60	593.60	623.20
43	538.40	565.60	593.60	623.20	654.40
44	565.60	593.60	623.20	654.40	687.20
45	593.60	623.20	654.40	687.20	721.60
46	623.20	654.40	687.20	721.60	757.60
47	654.40	687.20	721.60	757.60	795.20
48	687.20	721.60	757.60	795.20	835.20
49	721.60	757.60	795.20	835.20	876.80
50	757.60	795.20	835.20	876.80	920.80
51	795.20	835.20	876.80	920.80	967.20
52	835.20	876.80	920.80	967.20	1,015.20
53	876.80	920.80	967.20	1,015.20	1,065.60
54	920.80	967.20	1,015.20	1,065.60	1,119.20
55	967.20	1,015.20	1,065.60	1,119.20	1,175.20
56	1,015.20	1,065.60	1,119.20	1,175.20	1,233.60
57	1,065.60	1,119.20	1,175.20	1,233.60	1,295.20
58	1,119.20	1,175.20	1,233.60	1,295.20	1,360.00
59	1,175.20	1,233.60	1,295.20	1,360.00	1,428.00
60	1,233.60	1,295.20	1,360.00	1,428.00	1,499.20
61	1,295.20	1,360.00	1,428.00	1,499.20	1,574.40
62	1,360.00	1,428.00	1,499.20	1,574.40	1,652.40
63	1,428.00	1,499.00	1,574.40	1,652.80	1,735.20
64	1,499.20	1,574.40	1,652.80	1,735.20	1,821.60

65	1,574.40	1,652.80	1,735.20	1,821.60	1,912.80

SEC. 7. Section 73487 of the Government Code is amended to read:

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction, then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	41.50
(b) Deputy clerk II	43.50
(c) Deputy clerk III	45.50
(d) Deputy clerk IV	48.75
(e) Clerk/Administrator	52.75
(f) Clerk-typist II	40.50
(g) Deputy marshal	51.75
(h) Senior deputy marshal	55.50

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range, until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 8. Section 73489 of the Government Code is amended to read:

73489. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Deputy clerk III
(d) Deputy clerk IV
(e) Clerk/Administrator
(f) Clerk-typist II
(g) Deputy marshal
(h) Senior deputy marshal

Whenever the salary of the class of deputy sheriff II is adjusted, the class of deputy marshal and senior deputy marshal shall be adjusted an equal number of ranges on the salary schedule.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class or classes deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made,

unless ratified by the Legislature.

SEC. 9. Section 73706 of the Government Code is amended to read:

73706. There shall be one marshal who shall receive the biweekly salary specified in range 59.25 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 10. Section 73710 of the Government Code is amended to read:

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	41.50
(b) Deputy clerk II	43.50
(c) Deputy clerk III	45.50
(d) Chief deputy clerk	53.00
(e) Clerk	51.75
(f) Clerk-typist II	40.50
(g) Senior deputy marshal	54.00
(h) Deputy marshal	51.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range, until the employee reaches the maximum step on the range assigned for his position. Thereafter, no additional step increase shall be granted.

SEC. 11. Section 73713 of the Government Code is amended to read:

73713. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Deputy clerk III
(d) Chief deputy clerk

(e) Clerk
(f) Clerk-typist II
(g) Senior deputy marshal
(h) Deputy marshal

Whenever the salary of the class of deputy sheriff II is adjusted, the class of deputy marshal and senior deputy marshal shall be adjusted an equal number of ranges on the salary schedule.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 12. Section 74192 of the Government Code is amended to read:

74192. (a) There shall be one administrator who shall be appointed by the judges of the court and who shall be clerk of the court. The administrator shall receive a biweekly salary at a rate specified in range 1816. The position of administrator shall not be deemed a civil service position. The administrator shall be the appointing authority for the positions set forth in this section. Each person appointed shall serve at the pleasure of the administrator.

(b) There shall be one director of judicial services. The director of judicial services for the court shall receive a biweekly salary at a rate specified in range 1420. The position of director of judicial services for the court shall not be deemed a civil service position.

(c) There shall be one director of administrative services. The director of administrative services for the court shall receive a biweekly salary at a rate specified in range 1604. The position of director of administrative services shall not be deemed a civil service position.

(d) There shall be three senior legal stenographers. The senior legal stenographer for the court shall receive a biweekly salary at a rate specified in range 787. The position of senior legal stenographer shall not be deemed a civil service position.

(e) There shall be four senior deputy clerks. The senior deputy clerks for the court shall receive a biweekly salary at a rate specified in range 724. The positions of senior deputy clerk for the court shall not be deemed civil service positions.

(f) There shall be one principal deputy clerk. Each principal deputy clerk for the court shall receive a salary at a rate specified in range 1088. The position of principal deputy clerk for the court shall not be deemed a civil service position.

(g) There shall be one system manager coordinator. The system manager coordinator shall receive a biweekly salary at a rate specified in range 1302. The position of system manager coordinator shall not be deemed a civil service position.

(h) There shall be two court interpreters. The court interpreters shall receive a biweekly salary at a rate specified in range 847. The position of court interpreter shall not be deemed a civil service

position.

(i) There shall be one director of operations. The director of operations shall receive a biweekly salary at a rate specified in range 1420. The position of director of operations shall not be deemed a civil service position.

(j) There shall be nine associate deputy clerks. The associate deputy clerks shall receive a biweekly salary at a rate specified in range 612. The position of the court associate deputy clerk shall not be deemed a civil service position.

(k) There shall be one typist-clerk II. The typist-clerk II shall receive a biweekly salary at a rate specified in range 585. The position of the typist-clerk II for the court shall not be deemed a civil service position.

(*l*) There shall be one halftime typist-clerk II. The halftime typist-clerk II for the court shall receive a biweekly salary at a rate specified in range 585. The position of the half time typist-clerk II shall not be deemed a civil service position.

(m) There shall be one attorney II. The attorney II for the court shall receive a biweekly salary at a rate specified in range 1454. The position of the attorney shall not be deemed a civil service position.

(n) There shall be two administrative assistants I. The administrative assistant I for the court shall receive a biweekly salary at a rate specified in range 1063. The position of administrative assistant shall not be deemed a civil service position.

SEC. 13. Section 74193 of the Government Code is amended to read:

74193. The administrator shall appoint:

(a) One justice court clerk, who shall receive a biweekly salary at a rate specified in range 804.

(b) Three deputy clerks, who shall be principal deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 1088.

(c) Nineteen deputy clerks, who shall be court clerks, each of whom shall receive a biweekly salary at a rate specified in range 995.

(d) Thirteen deputy clerks who shall be typist-clerks II, each of whom shall receive a biweekly salary at a rate specified in range 585.

(e) Sixteen deputy clerks, who shall be senior deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 724.

(f) Twenty-six deputy clerks, who shall be associate deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 612.

(g) Seventeen deputy clerks, who shall be cashier-clerks, each of whom shall receive a biweekly salary at a rate specified in range 625.

(h) One deputy clerk, who shall be a clerk II, who shall receive a biweekly salary at a rate specified in range 585.

(i) Five deputy clerks, who shall be account clerks II, each of whom shall receive a biweekly salary at a rate specified in range 694.

(j) One deputy clerk, who shall be a data-processing technician

III, who shall receive a biweekly salary at a rate specified in range 910.

(k) One deputy clerk, who shall be a data-processing technician II, who shall receive a biweekly salary at a rate specified in range 843.

(*l*) One deputy clerk, who shall be a data entry supervisor, who shall receive a biweekly salary at a rate specified in range 833.

(m) Eight deputy clerks, who shall be data entry operators, each of whom shall receive a biweekly salary at a rate specified in range 636.

(n) One deputy clerk, who shall be a senior personnel clerk who shall receive a biweekly salary at a rate specified in range 732.

(o) One deputy clerk who shall be an accountant II, who shall receive a biweekly salary at a rate specified in range 1063.

SEC. 14. Section 74194 of the Government Code is amended to read:

74194. There shall be one marshal, Sacramento County, who shall be appointed by the judges of the court, and who shall receive a biweekly salary at a rate specified in range 1767. The position of marshal shall not be deemed to be a civil service position.

SEC. 15. Section 74195 of the Government Code is amended to read:

74195. The marshal shall appoint:

(a) One deputy marshal who shall be marshal's captain, who shall receive a biweekly salary at a rate specified in range 1440.

(b) Two deputy marshals, who shall be marshal's lieutenants, each of whom shall receive a biweekly salary at a rate specified in range 1306.

(c) Two deputy marshals, who shall be marshal's sergeants, each of whom shall receive a biweekly salary at a rate specified in range 1227.

(d) Thirty-one deputy marshals, who shall be deputy marshals, each of whom shall receive a biweekly salary at a rate specified in range 1059.

(e) One deputy marshal, who shall be a principal deputy clerk, who shall receive a biweekly salary at a rate specified in range 1088.

(f) One typist-clerk III, confidential, who shall receive a biweekly salary at a rate specified in range 732.

(g) Three deputy marshals, who shall be senior deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 724.

(h) Five deputy marshals, who shall be associate deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 612.

All deputy marshals listed in subdivisions (a) to (d), inclusive, are authorized incentive pay in addition to the above rates as follows:

2½% of base pay	(1) Intermediate POST Certificate
5% of base pay	(1) AA Degree

7½% of base pay	(1) AA Degree + Intermediate or Advance POST Certificate
10% of base pay	(1) BS Degree
12½% of base pay	(1) AA Degree + Advance POST Certificate
15% of base pay	(1) BS Degree + Intermediate POST Certificate
17½% of base pay	(1) BS Degree + Advance POST Certificate

SEC. 16. Section 74201 of the Government Code is amended to read:

74201. There shall be one pretrial release program manager. The appointing authority for the position shall be the judges of the Sacramento Municipal Court. The position shall not be deemed to be a civil service position and the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal Court. The salary range for the position shall be 1392.

SEC. 17. Section 74783 of the Government Code is amended to read:

74783. There shall be one clerk-administrator who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk shall be on salary range 65B. The clerk may appoint, with the approval of the judges of the court:

(a) One assistant clerk-administrator on range 58C.
(b) Eight courtroom clerks on range 51B.
(c) Five senior legal clerks on range 50B.
(d) One accounting technician on range 49B.
(e) Two legal clerk III's on range 48B.
(f) One account clerk III on range 47B.
(g) One department head secretary on range 49D.
(h) Eight legal clerk II's on range 46B.
(i) Twenty-six legal clerk I's on range 44B.

SEC. 18. Section 74784 of the Government Code is amended to read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on range 61B. The marshal may appoint, with the approval of the judges of the court:

(a) One assistant marshal on range 57C effective January 1, 1984, and 58B effective July 1, 1984.

(b) Thirteen deputy marshals on range 53C effective January 1, 1984, and 54B effective July 1, 1984.

(c) One supervising civil process technician on range 48B.

(d) One civil process technician on range 46B.

(e) Three civil process clerks on range 44B.

SEC. 19. Section 74785 of the Government Code is amended to read:

74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be attachés of the court, and in lieu of any other compensation provided by law for their services in reporting testimony in criminal proceedings in the court shall receive a monthly salary equivalent to range 60D.

SEC. 20. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:

(a) Four (4) municipal court coordinators.

(b) One (1) calendar coordinator.

(c) Seven (7) deputy clerks IV.

(d) Three (3) deputy clerks III.

(e) One (1) legal steno.

(f) Eight (8) deputy clerks II.

(g) Twenty-nine (29) deputy clerks I.

SEC. 21. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 59.25 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the marshal may be adjusted by a percentage not to exceed the percentage of the adjustment applicable to such related class or classes. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 22. Section 74806 of the Government Code is amended to read:

74806. The following biweekly salary schedule shall apply to persons employed in the clerk's office and the marshal's office:

Salary range number	Steps A	B	C	D	E
31	298.40	313.60	329.60	346.40	364.00
32	313.60	329.60	346.40	364.00	382.40
33	329.60	346.40	364.00	382.40	401.60
34	346.40	364.00	382.40	401.60	421.60
35	364.00	382.40	401.60	421.60	442.40
36	382.40	401.60	421.60	442.40	464.80
37	401.60	421.60	442.40	464.80	488.00
38	421.60	442.40	464.80	488.00	512.80
39	442.40	464.80	488.00	512.80	538.40
40	464.80	488.00	512.80	538.40	565.60
41	488.00	512.80	538.40	565.60	593.60

42	512.80	538.40	565.60	593.60	623.20
43	538.40	565.60	593.60	623.20	654.40
44	565.60	593.60	623.20	654.40	687.20
45	593.60	623.20	654.40	687.20	721.60
46	623.20	654.40	687.20	721.60	757.60
47	654.40	687.20	721.60	757.60	795.20
48	687.20	721.60	757.60	795.20	835.20
49	721.60	757.60	795.20	835.20	876.80
50	757.60	795.20	835.20	876.80	920.80
51	795.20	835.20	876.80	920.80	967.20
52	835.20	876.80	920.80	967.20	1,015.20
53	876.80	920.80	967.20	1,015.20	1,065.60
54	920.80	967.20	1,015.20	1,065.60	1,119.20
55	967.20	1,015.20	1,065.60	1,119.20	1,175.20
56	1,015.20	1,065.60	1,119.20	1,175.20	1,233.60
57	1,065.60	1,119.20	1,175.20	1,233.60	1,295.20
58	1,119.20	1,175.20	1,233.60	1,295.20	1,360.00
59	1,175.20	1,233.60	1,295.20	1,360.00	1,428.00
60	1,233.60	1,295.20	1,360.00	1,428.00	1,499.20
61	1,295.20	1,360.00	1,428.00	1,499.20	1,574.40
62	1,360.00	1,428.00	1,499.20	1,574.40	1,652.40
63	1,428.00	1,499.00	1,574.40	1,652.80	1,735.20
64	1,499.20	1,574.40	1,652.80	1,735.20	1,821.60
65	1,574.40	1,652.80	1,735.20	1,821.60	1,912.80

SEC. 23. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	41.50
(b) Deputy clerk II	43.50
(c) Deputy clerk III	45.50
(d) Legal steno	46.50
(e) Deputy clerk IV	48.50
(f) Municipal court coordinator	48.75
(g) Clerk/Administrator	61.75
(h) Deputy marshal	53.25
(i) Senior deputy marshal	54.00
(j) Calendar coordinator	48.75

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on

his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 24. Section 74808 of the Government Code is amended to read:

74808. Whenever the salary of a related class, or classes, of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class, or classes, deemed by the board of supervisors to be related:

(a) Deputy clerk I
(b) Deputy clerk II
(c) Deputy clerk III
(d) Legal steno
(e) Deputy clerk IV
(f) Chief deputy clerk
(g) Clerk/Administrator
(h) Calendar coordinator
(i) Municipal court coordinator
(j) Deputy marshal
(k) Senior deputy marshal

Whenever the salary of the class of deputy sheriff II is adjusted, the class of deputy marshal and senior deputy marshal shall be adjusted an equal number of ranges on the salary schedule.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class, or classes, deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 25. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 964

An act to add Section 65036.5 to the Government Code, relating to community redevelopment.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. The Legislature finds and declares that it is in the public interest for the Legislature to be apprised of the development needs of local communities throughout the state and of any barriers which exist to the accomplishment of desired development.

SEC. 2. Section 65036.5 is added to the Government Code, to read:

65036.5. The Office of Planning and Research shall select and survey a sample of cities and counties throughout the state, including both urban and rural jurisdictions, and report to the Legislature on or before December 31, 1985, with respect to all of the following:

(a) The amount of land within the jurisdiction which is intended for development and which does not meet the requirements of a project area, as defined in Section 33320.1 of the Health and Safety Code.

(b) The current zoning and actual use of the land identified pursuant to subdivision (a) and a determination of whether that land contains public improvements, public facilities, or utilities.

(c) Information with respect to the proposed or attempted means of financing the intended development and the reasons, if any, that the intended development cannot be accomplished, either by the private sector or existing programs or funds of the public sector, in a manner which is both economically feasible and consistent with the general plan of the city or county in which the land is located.

(d) Information with respect to the degree to which the intended development is compatible with the general plan of any adjacent city or county.

(e) Information with regard to any increased demands which will be placed upon services provided by the city or county in which the land is located or any adjacent city or county if the intended development is completed, and the anticipated means of meeting those increased demands.

CHAPTER 965

An act to amend Sections 75027, 75030, 75058, 75085, 75089, 75093, 75131, 75132, and 75171 of, and to add Sections 75027.5, 75092.5, and 75131.5 to, the Food and Agricultural Code, relating to eggs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 75027 of the Food and Agricultural Code is amended to read:

75027. "Eggs" means eggs from domesticated chickens produced in California and sold for human consumption in shell egg form,

except those eggs used for hatchery purposes.

SEC. 2. Section 75027.5 is added to the Food and Agricultural Code, to read:

75027.5. "Egg products" means eggs which are not sold or used for consumption in shell egg form and which have been processed into a nonshell form for use in food processing.

SEC. 3. Section 75030 of the Food and Agricultural Code is amended to read:

75030. "Handler" means the first person who either (a) sorts, grades, candles, or packages shell eggs, or (b) processes shell eggs into egg products; and who engages in the operation of selling or marketing eggs or egg products which he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, or broker or otherwise. However, "handler" does not include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer eggs or egg products which were not previously subject to regulation by the commission.

SEC. 4. Section 75058 of the Food and Agricultural Code is amended to read:

75058. (a) Two alternate members, one from each district, shall be elected in the same manner as the members.

(b) Under procedures established by the commission, any alternate member may serve in place of any absent member on the commission regardless of whether the alternate was chosen from the district the absent member represents and shall have all the rights, privileges, and powers of the member when serving on the commission.

(c) In the event of death, removal, resignation, or disqualification of a member, the alternate shall act as a member on the commission until a qualified successor is elected.

SEC. 5. Section 75085 of the Food and Agricultural Code is amended to read:

75085. (a) The commission shall employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that are necessary to carry out this chapter.

(b) In lieu of an individual as president, the commission may contract with any private entity or state agency to perform, under the control of the commission, the functions specified in subdivision (a).

(c) If the president, private entity, or state agency engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the president, private entity, or state agency,

as the case may be.

SEC. 6. Section 75089 of the Food and Agricultural Code is amended to read:

75089. (a) The commission shall keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all handlers and producers, copies of which shall also be submitted to the Legislature and the department.

(b) In addition, the director may, as he or she determines it to be necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

SEC. 7. Section 75092.5 is added to the Food and Agricultural Code, to read:

75092.5. The commission may accept contributions for the purpose of carrying out any activity consistent with this chapter.

SEC. 8. Section 75093 of the Food and Agricultural Code is amended to read:

75093. (a) The commission may conduct, and contract with others to conduct, marketing research, including the study, analysis, dissemination, and accumulation of information obtained from the research or from other sources regarding the marketing and distribution of eggs and egg products. In connection with the research, the commission is authorized to accept contributions of, or to match, private, state, or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting this research.

(b) The commission may conduct research programs for the purpose of developing and testing new products in selected markets. Funds may be expended to develop the proposal; however, the proposed program shall be submitted to the director for approval prior to the expenditure of funds to implement the program. The proposal submitted shall include a description of the new products, the test market to be utilized, and the duration of the program.

SEC. 9. Section 75131 of the Food and Agricultural Code is amended to read:

75131. (a) The assessment on eggs and egg products shall be established by the commission, with the approval of not less than five handler members, prior to the beginning of each marketing season and shall not exceed one cent ($0.01) per dozen for shell eggs, or the equivalent thereof, as determined by the commission, for egg products.

(b) The commission may establish an assessment rate that is different for eggs than for egg products, so long as it does not exceed the maximum assessment authorized in subdivision (a).

(c) For the 1984 marketing season, the commission may revise, pursuant to subdivision (b), any assessment rate that was adopted prior to that season.

SEC. 10. Section 75131.5 is added to the Food and Agricultural Code, to read:

75131.5. Prior to the beginning of each marketing season and during the 1984 marketing season, the commission, with the concurrence of the director, may exempt the sale of specified eggs and egg products from an assessment if the commission determines that the activities supported by the assessment are inapplicable to the eggs and egg products.

SEC. 11. Section 75132 of the Food and Agricultural Code is amended to read:

75132. This chapter does not apply to any handler who handles no more than 26,000 cases of eggs per year, or the equivalent thereof, and to secondary handlers. Direct sales to customers in less than one case lots shall not be used in computing the number of cases handled per week. However, the handler shall file an affidavit with the commission stating the basis for exemption from this chapter. The commission shall then determine whether the affidavit should be approved.

SEC. 12. Section 75171 of the Food and Agricultural Code is amended to read:

75171. (a) Between January 1, 1989, and December 31, 1989, the commission shall conduct a referendum among handlers. A favorable vote under this chapter shall be found if the director determines from the referendum that a majority of the eligible handlers voting in the referendum voted in favor of continuing the operations of this chapter.

(b) If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain operative. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the marketing season ending December 31, 1989. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 75175.

(c) No bond or security is required for the referendum.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure an adequate supply of eggs and egg products to the residents of this state during the 1984 egg marketing season, it is necessary that this act take effect immediately.

CHAPTER 966

An act to amend Sections 37602, 37622, 37626, 37628, 37629, 37645, 37660, and 37661 of the Health and Safety Code, relating to the Marks Historical Rehabilitation Act of 1976.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 37602 of the Health and Safety Code is amended to read:

37602. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Financing" means the lending of money or thing of value for the purpose of historical rehabilitation of historical properties and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to historical rehabilitation, the acquisition of historical properties for the purpose of historical rehabilitation, or the acquisition of historical properties rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(c) "Historical rehabilitation" means the reconstruction, restoration, renovation, or repair of the interiors or exteriors of historical properties or their relocation for the purposes of restoring or preserving their historical or architectural significance or authenticity, preventing their deterioration or destruction, continuing their use, providing for their feasible reuse, or providing for the safety of the occupants or passersby. "Historical rehabilitation" includes, but is not limited to, the repairing of architectural facades or ornamentation; removal of inappropriate additions or materials; replacement of facades, ornamentation, or architectural elements previously removed; repairing of roofs, foundations, and other essential structural elements; installing parking areas, if required by local regulation or law for the use for which the property is intended after rehabilitation; or any work done on a historical property in order to comply with rehabilitation standards. "Historical rehabilitation" also includes the cost of interest during construction on a historical rehabilitation loan and incidental expenses directly relating to the historical rehabilitation, including but not limited to architect and engineering fees and the costs of financing. "Historical rehabilitation" does not include the purchase,

installation, or restoration of furnishings. Notwithstanding the foregoing, "historical rehabilitation" includes, but is not limited to, the purchase and installation of fixtures necessary for the use for which the property is intended after rehabilitation. By way of example and not limitation, equipment may include fire escapes, if required by local regulation for the use, and heating-ventilating-and-air-conditioning systems; if the intended use is a restaurant, "historical rehabilitation" may include, but is not limited to, the purchase and installation of fixed improvements which are installed as part of the historical property, including stoves, refrigerators, freezers, sinks, dishwashers, and work tables, but shall not include furnishings, such as pots, pans, dishes, or silverware.

(d) "Historical rehabilitation area" is a geographic area, with specific boundaries, which is designated by a local agency as an area in which a historical rehabilitation financing program shall apply. It may encompass the entire jurisdiction of the local agency, or any portions thereof, including single parcels.

(e) "Historical property" means any building or part thereof, object, structure, monument, or collection thereof deemed of importance to the history, architecture, or culture of an area as determined by an appropriate governmental agency. An appropriate governmental agency is a local official historic preservation board or commission, a legislative body of a local agency, or the State Historical Resources Commission. "Historical property" includes objects, buildings, structures, monuments, or collections thereof on existing national, state, or local historical registers or official inventories, such as the National Register of Historic Places and State Historical Landmarks.

(f) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(g) "Local agency" means a city, county, city and county, or redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(h) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for historical rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provisions of this part.

(i) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the local agency and to aid in financing pursuant to this chapter on behalf of the local agency, for which service the qualified mortgage lender shall be reasonably compensated. Such a mortgage lender shall be a state or national bank, a federally or state-chartered savings and loan association, or a trust company or mortgage broker which is capable of providing such service or otherwise aiding in financing pursuant to this chapter.

(j) "Rehabilitation standards" means the applicable local or state

standards for the rehabilitation of historical properties, including any higher standards adopted by the local agency as part of its historical rehabilitation financing program and including standards established pursuant to Part 2.7 (commencing with Section 18950) of Division 13, except that, for properties listed on or eligible for listing on the National Register of Historical Places, "rehabilitation standards" shall mean, at a minimum, those standards set forth by the United States Department of Interior as "The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" as those standards may be applicable to any particular historical rehabilitation.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of historical rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

SEC. 2. Section 37622 of the Health and Safety Code is amended to read:

37622. The local agency may employ or contract for any engineering, architectural, accounting, collection, economic feasibility, or other services in connection with the servicing of loans made to participating parties, which may be necessary or useful in the judgment of the local agency for the successful financing of the historical rehabilitation. The local agency may pay the reasonable costs of consulting engineers, architects, accountants, construction experts, and economic feasibility experts, if, in the judgment of the local agency, the services are necessary or useful to the successful financing of any historical rehabilitation. The local agency may employ, contract for, and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary or useful in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the local agency.

SEC. 3. Section 37626 of the Health and Safety Code is amended to read:

37626. Prior to the issuance of any bonds or bond anticipation notes of the local agency for historical rehabilitation, the legislative body shall by ordinance or resolution adopt a historical rehabilitation financing program. The program shall include, but is not limited to, the following items:

(a) Criteria for the selection of historical properties eligible for financing. The criteria may include, but are not limited to, the following items of architectural significance:

(1) Structures or areas that embody distinguishing characteristics of an architectural style, period, method of construction, or architectural development in a city or county.

(2) Notable works of a master builder, designer, or architect

whose style influenced the city's or county's architectural development, or structures showing the evolution of an architect's style.

(3) Rare structures displaying a building type, design, or indigenous building form.

(4) Structures which embody special architectural and design features.

(5) Outstanding examples of structures displaying original architectural integrity, structurally or stylistically, or both.

(6) Unique structures or places that act as focal or pivotal points important as a key to the character or visual quality of an area.

(b) The criteria may include the following items of historical significance:

(1) Sites and structures connected with events significant in the economic, cultural, political, social, civic, ethnic, or military history of a community, state, or nation.

(2) Structures or areas identified with the lives of historical personages of a community, state, or nation.

(3) Sites and groups of structures representing historical development patterns, including, but not limited to, urbanization patterns, railroads, agricultural settlements, and canals.

(c) Criteria for the selection of historical rehabilitation areas may include, but are not limited to:

(1) Areas constituting a distinct section of the city and having special character, historical, architectural, or aesthetic interest and value.

(2) Areas providing significant examples of architectural styles of the past, or landmarks in the history of architecture.

(3) Areas serving as a reminder of past eras, events, and persons important in local, state, or national history, and illustrating past living styles for future generations to observe, study, and inhabit.

(4) Historical and culturally significant grounds, gardens, and objects.

(d) Following the adoption of the criteria previously provided for in this section, the designation of one or more historical rehabilitation areas, including a description of the area, a map and other related information.

(e) Outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 90 percent of the anticipated value of the property after rehabilitation.

(f) The maximum repayment period for historical rehabilitation loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(g) No less than 90 percent of any loan for historical rehabilitation and shall be used for financing of historical rehabilitation, as defined in this part.

(h) All historical rehabilitation financed pursuant to this chapter shall be done in compliance with the appropriate rehabilitation

standards, as defined in subdivision (j) of Section 37602.

(i) The participating party shall commence the historical rehabilitation of a historical property within five years and shall complete the historical rehabilitation of the historical property within 10 years of the date on which the participating party obtained financing pursuant to this part.

SEC. 4. Section 37628 of the Health and Safety Code is amended to read:

37628. Prior to the adoption of an historical rehabilitation financing program and the designation of an historical rehabilitation area, the local agency shall provide for citizen participation by persons who will be affected by historical rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the historical rehabilitation program. "Citizen participation" shall include, but is not limited to:

(a) Holding a public meeting to inform the public of the proposed historical rehabilitation financing program.

(b) Holding a public hearing prior to the adoption of the historical rehabilitation financing program and the designation of an historical rehabilitation area.

(c) Public notice by the local agency, at least seven days in advance of a public meeting or hearing, in a newspaper of general circulation in the area, of the time and place of a meeting or hearing and a general description of the program.

(d) Dissemination by the local agency, at least seven days in advance of a public meeting or hearing, by mailing to those individuals or groups which have requested notification, of information relating to the time and place of a meeting or hearing and a general description of the program.

(e) Establishment of a citizen advisory board for the purpose of providing recommendations to the legislative body on the contents of the historical rehabilitation financing program. Members of the citizens advisory board shall be appointed by the legislative body and shall include one or more representatives of owners of properties affected by the program, one or more representatives of residents or occupants (if any) of properties to be affected by the program, one or more representatives of the local community groups (if any) known by the legislative body to be concerned with historical rehabilitation, and others as the legislative body may deem appropriate.

An existing local official historic preservation board or commission may be appointed as the citizens advisory board, provided that, in addition, representatives as required by this section are also appointed.

SEC. 5. Section 37629 of the Health and Safety Code is amended to read:

37629. No financing shall be provided under this part until criteria required by Section 37626 have been adopted. Properties eligible for financing shall be located within a designated historical

rehabilitation area. Prior to granting financial assistance, the local agency shall find that the funds loaned shall be used for the purpose of historical rehabilitation.

SEC. 6. Section 37645 of the Health and Safety Code is amended to read:

37645. In the discretion of the local agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the local agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. The trust agreement or the resolution providing for the issuance of bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any historical property, the rehabilitation of which is to be financed out of the proceeds of bonds. The trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders which are reasonable and proper and not in violation of law, including any provisions which may be included in any resolution or resolutions of the local agency authorizing the issuance of bonds pursuant to Section 37642. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other moneys may furnish any indemnity bonds or pledge any securities which may be required by the local agency. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions which the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of historical rehabilitation.

SEC. 7. Section 37660 of the Health and Safety Code is amended to read:

37660. The local agency may provide financing to any participating party for the purpose of historical rehabilitation authorized pursuant to an historical rehabilitation financing program. All agreements for loans shall provide that the architectural and engineering design of the historical rehabilitation shall be subject to the standards which may be established by the local agency and that the work of historical rehabilitation shall be subject to any supervision the local agency deems necessary. The local agency may provide financing to any qualified mortgage lender provided that the qualified mortgage lender shall use the financing to provide financing to any participating party for the purpose of historical rehabilitation authorized pursuant to a historical rehabilitation financing program pursuant to this chapter.

SEC. 8. Section 37661 of the Health and Safety Code is amended to read:

37661. The local agency may enter into loan agreements with any participating party or qualified mortgage lender relating to historical rehabilitation of any kind or character. The terms and conditions of the loan agreements may be as mutually agreed upon. Any loan agreement may provide the means or methods by which any mortgage taken by the local agency shall be discharged, and it shall contain any other terms and conditions which the local agency may require. The local agency is authorized to fix, revise, charge, and collect interest and principal and all other rates, fees, and charges with respect to financing of historical rehabilitation. The rates, fees, charges, and interest shall be fixed and adjusted so that the aggregate of the rates, fees, charges, and interest will provide funds sufficient with other revenues and moneys which it is anticipated will be available therefor, if any, to do all of the following:

(a) Pay the principal of and interest on outstanding bonds of the local agency issued to finance the historical rehabilitation as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing bonds. A sufficient amount of the revenues derived from historical rehabilitation may be set aside at regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on the bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or moneys so pledged and thereafter received by the local agency shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the local agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the local agency. The use and disposition of moneys to the credit of the sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of bonds. Except as may otherwise be provided in the resolution, the sinking or other similar fund may be a fund for all bonds of the local agency issued to finance the rehabilitation of the historical property of a particular participating party without distinction or priority. The local agency, however, in the resolution may provide that the sinking or other similar fund shall be the fund for a particular historical rehabilitation project or projects and for the bonds issued to finance the historical rehabilitation project or projects and may, additionally, authorize and provide for the issuance of bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other bonds of the local agency, and, in which case, the local agency may

create separate sinking or other similar funds securing the bonds having the subordinate lien.

(c) Pay operating and administrative costs of the local agency incurred in the administration of the program authorized by this part.

CHAPTER 967

An act to amend Section 56.10 of the Civil Code, relating to medical information.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care shall disclose medical information regarding a patient of the provider without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a government law enforcement agency.

(7) When otherwise specifically required by law.

(c) A provider of health care may disclose medical information as follows:

(1) The information may be disclosed to providers of health care or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency

situation, the communication of patient information by radio transmission between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. The information may also be disclosed to another provider as necessary to assist the other provider in obtaining payment for health care services rendered by that provider to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way which would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, or to professional standards review organizations, or to utilization and quality control peer review organizations as established by Congress in Public Law 97–248 in 1982, or to persons or organizations insuring, responsible for, or defending professional liability which a provider may incur, if the committees, agents, organizations, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care. However, no patient identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office.

(7) The information may be disclosed to public agencies, clinical investigators, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way which would permit identification of the patient.

(8) A provider of health care that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and

expense of the employer may disclose to the employee's employer that part of the information which:

(A) Is relevant in a law suit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided it may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy which the patient seeks coverage by or benefits from, if the information was created by the provider of health care as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a group practice prepayment health care service plan by providers which contract with the plan and may be transferred among providers which contract with the plan, for the purpose of administering the plan. Medical information may not otherwise be disclosed by a group practice prepayment health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

SEC. 2. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care shall disclose medical information regarding a patient of the provider without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil

Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a government law enforcement agency.

(7) When otherwise specifically required by law.

(c) A provider of health care may disclose medical information as follows:

(1) The information may be disclosed to providers of health care or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. The information may also be disclosed to another provider as necessary to assist the other provider in obtaining payment for health care services rendered by that provider to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way which would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, or to licensed health care service plans, or to professional standards review organizations, or to utilization and quality control peer review organizations as established by Congress in Public Law 97-248 in 1982, or to persons or organizations insuring, responsible for, or defending professional liability which a provider may incur, if the committees, agents, plans, organizations, or persons are engaged in reviewing the competence or qualifications of health

care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care may be reviewed by any private or public body responsible for licensing or accrediting the provider of health care. However, no patient identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office.

(7) The information may be disclosed to public agencies, clinical investigators, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way which would permit identification of the patient.

(8) A provider of health care that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information which:

(A) Is relevant in a law suit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided it may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy which the patient seeks coverage by or benefits from, if the information was created by the provider of health care as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a group practice prepayment health care service plan by providers which contract with the plan and may be transferred among providers which contract with the plan, for the purpose of administering the plan. Medical information may not otherwise be disclosed by a group practice prepayment health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider

of health care to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

SEC. 3. Section 2 of this bill incorporates amendments to Section 56.10 of the Civil Code proposed by both this bill and AB 3830. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 56.10 of the Civil Code, and (3) this bill is enacted after AB 3830, in which case Section 1 of this bill shall not become operative.

CHAPTER 968

An act to add Article 1.4 (commencing with Section 31486) to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, and to add Section 95806 to, and to repeal Section 95802 of, the Public Utilities Code, relating to public employees retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Article 1.4 (commencing with Section 31486) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 1.4. Alternative Plan for Counties of the 16th Class

31486. (a) The retirement plan created by this article shall be known as Retirement Plan 2.

(b) This article shall be applicable in the retirement system of any county of the 16th class as described by Sections 28020 and 28037, if the board of supervisors executes a memorandum of understanding with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan herein created, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided in this subdivision, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) shall not apply.

(2) Article 10 (commencing with Section 31720) shall not apply.

(3) Article 11 (commencing with Section 31760) shall not apply.

(4) Article 12 (commencing with Section 31780) shall not apply.

(5) Article 16.5 (commencing with Section 31870) shall not apply.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided therein, no amendment to this article enacted subsequent to the effective date of this article shall apply to any county or to the employees of any county unless and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

31486.1. Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the time an application for retirement is filed or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, and eligible for

membership as defined by the board in accordance with subdivision (h) of Section 31527, except an employee eligible for or employed in a position eligible for safety membership as defined in Sections 31470.2 and 31470.4.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member. Except as otherwise provided, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

31486.2. (a) There shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

(c) A member who has five or more years of county service as defined in subdivision (g) of Section 31486.1 may elect to leave his or her contributions to remain on deposit for service retirement benefits only.

31486.3. (a) Except as provided in Section 31486.9 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for that public service time, and shall not receive credit for that prior public service.

(b) Absence from work without pay shall not be considered as breaking the continuity of service.

31486.4. (a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(d) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(e) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation

multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 10 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(f) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement, in the following table:

Age	ERA Factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The ERA Factors set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(g) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have

been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (ii) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (iii) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(h) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(i) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31486.6.

(j) Notwithstanding subdivision (e) of Section 31486.4, any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

31486.5. A member who retires for service prior to the age of becoming eligible for benefits described under subdivision (f) of Section 31486.1 may, with the approval of the board, elect to have the retirement pension increased prior to the eligible age and reduced after that age by amounts which have equivalent actuarial values. This modification is for the purpose of coordinating a member's retirement pension with that received from the federal system.

31486.6. (a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of

retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had she or he lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon the death or marriage of the child or upon the child attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) Designations pursuant to subdivision (b) shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system.

31486.7. Notwithstanding any other provisions, upon the death of a member before retirement while in service, the designated beneficiary shall receive a death benefit equal to one month's final compensation as defined in subdivision (d) of Section 31486.1 for each year of service completed up to a maximum of six months.

31486.8. Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not become a member until that person certifies to the board an election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting the election.

31486.9. (a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. The transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. However, notwithstanding any other provision of this article, a transferring member may elect to receive credit and a retirement benefit as determined by the former retirement system for public service credit received by leaving contributions on deposit or a refund of contributions and relinquish public service credit.

31486.10. A member upon becoming vested under this article may elect to terminate and defer accrued benefits for the purpose of future service retirement benefits only, and enter membership of the contributory retirement provisions in effect for new members at the time of transfer. Notwithstanding any other provisions, the rate of contributions shall be based on age nearest birthday at the time of election to transfer.

31486.11. Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

31486.12. If any provision of this article, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provisions or application and, to this end the provisions of this article are severable.

SEC. 2. Section 95802 of the Public Utilities Code is repealed.

SEC. 3. Section 95806 is added to the Public Utilities Code, to read:

95806. In the event the board elects to adopt and maintain its own retirement system, that system shall comply with this article and the requirements of: (1) Article 2 (commencing with Section 95830), Article 3 (commencing with Section 95860) and Article 4 (commencing with Section 95890) of this chapter; or (2) applicable federal law to establish a qualified plan under Section 401 (a) of, and a tax exempt trust under Section 501 (a) of, the Internal Revenue Code of 1954, as amended.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of Section 1 of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. No appropriation is made and no reimbursement is required by Section 1 of this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because Section 1 of this act are in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the

meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the urgent fiscal crisis in Santa Barbara County may be alleviated at the earliest possible time pursuant to this act and an agreement between employee organizations and the county, it is necessary that this act take effect immediately.

CHAPTER 969

An act to add Section 24045.9 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 24045.9 is added to the Business and Professions Code, to read:

24045.9. (a) The department may issue a special temporary on-sale beer and wine license to: (1) a television station, supported wholly or in part by public membership subscription, which is a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States, or (2) a nonprofit, charitable corporation exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States which receives and administers donations for a noncommercial, educational television station or public broadcasting station supported wholly or in part by public membership subscription. An applicant for such a license shall accompany the application with a fee of one hundred dollars ($100).

(b) Such a license shall only entitle the licensee to sell and serve beer and wine donated to it. Notwithstanding any other provision of this division, licensees may donate beer to a corporation licensed under this section, provided such donations are not made in connection with a sale of an alcoholic beverage.

(c) Such a license shall be for a period not exceeding 30 days. Only one such license shall be issued to any corporation in any 12-month period.

(d) For purposes of this section, any licensee may also serve that beer donated by him or her at any event for which the license has been issued.

(e) The department shall adopt rules as it determines necessary to implement and administer this section.

CHAPTER 970

An act to add Section 72.5 to the Penal Code, relating to crimes.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 72.5 is added to the Penal Code, to read:

72.5. (a) Every person who, knowing a claim seeks public funds for reimbursement of costs incurred in attending a political function organized to support or oppose any political party or political candidate, presents such a claim for allowance or for payment to any state board or officer, or to any county, city, or district board or officer authorized to allow or pay such claims, is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such imprisonment and fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine.

(b) Every person who, knowing a claim seeks public funds for reimbursement of costs incurred to gain admittance to a political function expressly organized to support or oppose any ballot measure, presents such a claim for allowance or for payment to any state board or officer, or to any county, city, or district board or officer authorized to allow or pay such claims is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such imprisonment and fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine.

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

CHAPTER 971

An act to add Section 30796.5 to the Streets and Highways Code, relating to toll bridges.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 30796.5 is added to the Streets and Highways Code, to read:

30796.5. The department shall establish, and provide staff to, a task force to review the future needs of the San Diego-Coronado Bridge, traffic management improvements related to the bridge, alternative transportation solutions to bridge-related traffic impacts, and the appropriate level of tolls for the bridge after payment of all outstanding bonds secured by bridge revenues.

The task force shall be composed of representatives of the City of Coronado, the City of San Diego, the United States Navy if amenable thereto, the department, the San Diego Association of Governments, and the San Diego Metropolitan Transit Development Board.

The task force shall submit a report on its findings and recommendations to the Legislature by July 1, 1985.

CHAPTER 972

An act to add Chapter 5.5 (commencing with Section 92580) to Part 57 of the Education Code, relating to the University of California.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Chapter 5.5 (commencing with Section 92580) is added to Part 57 of the Education Code, to read:

CHAPTER 5.5. CALIFORNIA INSTITUTE FOR TELECOMMUNICATIONS AND INFORMATION POLICY RESEARCH

92580. (a) The Legislature hereby finds and declares that recent developments and technological innovations within the fields of telecommunications and information processing, including the restructuring of national telephone and information systems and the development of technology capable of uniting telecommunications and computer services, raise diverse state public policy concerns. These concerns include, but are not limited to, all of the following:

(1) The appropriate options for regulatory treatment of telecommunications, information, and electronic commerce industries.

(2) The state's use of advanced telecommunications and information services.

(3) Promotion of industrial development and a favorable climate for employment.

(4) The social changes in labor markets, industrial structure, housing, transportation, and other sectors of the economy, which are prompted by telecommunications and information developments.

The Legislature further finds that these public policy concerns have created the need for a comprehensive research program to provide policymakers with expert assistance in addressing the problems and anticipating the effects of changes caused by the growth of the telecommunications and information industries.

(b) It is the intent of the Legislature in enacting this chapter to cooperate with the University of California in the development of a program to establish a research institute capable of surveying the developing fields of telecommunications and information processing and proposing policies which will enable the people of this state to obtain their fullest possible benefits.

92581. It is the intent of the Legislature that the program be designed to do all of the following:

(a) Prepare an inventory of ongoing research by faculty currently involved in telecommunications and information policy research in California.

(b) Identify and evaluate current and emergent telecommunications and information policy issues.

(c) Establish a mechanism for coordinating links between and among appropriate university entities, state and local governmental agencies, and other entities concerned with the development of telecommunications and information policy in California.

(d) Prepare a long-term plan for the conduct of telecommunications and information policy research at the university through the establishment of the California Institute for Telecommunications and Information Policy Research to promote long-term policy research to identify social trends and emerging policy issues, and shorter-term policy research pertaining to current legislative and regulatory issues.

92582. It is the intent of the Legislature that the program established pursuant to this chapter shall be administered by the Regents of the University of California through the appointment of a director and a committee comprised of university faculty and others knowledgeable about telecommunications and information policy research.

It is also the intent of the Legislature that a coordinator be appointed to assist the director in achieving the objectives described in subdivision (c) of Section 92581.

92583. It is the intent of the Legislature that the Regents of the University of California shall submit a report to the Legislature on or before June 30, 1985, regarding the feasibility of establishing the California Institute for Telecommunications and Information Policy Research.

CHAPTER 973

An act to amend Section 55601.6 of, and to add Section 55612 to, the Food and Agricultural Code, relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 55601.6 of the Food and Agricultural Code is amended to read:

55601.6. (a) To provide funds to carry out the provisions of Section 55601.5, each processor who crushes more than 100 tons of grapes in California shall pay to the director the amount determined by the director to be necessary to cover these costs, but not to exceed three cents ($0.03) per ton of grapes received for crushing, fresh weight equivalent, during each marketing season beginning July 1 and ending the following June 30, provided that one and one-half cents ($0.015) per ton of grapes received for crushing, or one-half of the fee if the fee is less than three cents ($0.03), shall be paid by the processor who crushes grapes and that one and one-half cents ($0.015) per ton of grapes received for crushing including any grapes produced by the processor, or one-half of the fee if the fee is less than three cents ($0.03), shall be paid by the processor who crushes grapes and may be deducted from moneys owed to the producer.

(b) The amount of the fee shall be paid to the director on or before January 10 of each year on all grapes received for crushing through December 15. The amount of the fee on any grapes received for crushing after December 15 shall be paid to the director on or before June 30 of that marketing season.

(c) The director may fix the fee at a lesser amount and may adjust the fee from marketing season to marketing season.

(d) Any processor who crushes grapes who fails, neglects, or refuses to pay the required fee shall be in violation of this chapter as provided for in subdivision (i) of Section 55601.5. Any processor who crushes grapes shall not be entitled to pass any such penalty on to the producer of the grapes.

(e) If the director conducts an objective measurement survey pursuant to Section 55612, then the fee charged pursuant to subdivision (a) may be increased by not more than two cents ($0.02) per ton of grapes received for crushing, fresh weight equivalent, to cover the costs of the survey. The same ratio of payment between processor and producer shall be maintained if the fee is increased pursuant to this subdivision.

(f) All moneys received under the provisions of this section shall be deposited in the State Treasury to the credit of the Department

of Food and Agriculture Fund.

SEC. 2. Section 55612 is added to the Food and Agricultural Code, to read:

55612. (a) "Objective measurement survey" means counts and measurements of plant characteristics of a particular crop in sample fields in order to provide a basis for a forecast of statewide projected yields of that crop.

(b) If the director determines by March 1, of any year, that an objective measurement survey of the grape crop is desired by the processors, producers, and packers of grapes, and if the producers and processors of grapes for raisins and the producers and packers of grapes for fresh market use agree to pay their proportionate share, as determined by the director, of the cost of the survey, then the director shall conduct the survey. The director shall implement the provisions of Section 55601.6 to fund the wine industry's proportionate cost of the survey. If an objective measure survey is conducted, the results of the survey shall be printed and made available on or before August 12, of the year in which it is conducted.

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

Due to the need to have the survey conducted in time for the 1984 grape harvest, it is necessary that this act take effect immediately.

CHAPTER 974

An act to amend Section 13960 of the Government Code, relating to victims of crime.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 13960 of the Government Code is amended to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the

crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(3) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

CHAPTER 975

An act to amend Section 1916.5 of the Civil Code, and to repeal and add Article 2 (commencing with Section 3370) of Chapter 18 of Division 1 of the Financial Code, relating to loans.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 1916.5 of the Civil Code is amended to read:

1916.5. (a) No increase in interest provided for in any provision for a variable interest rate contained in a security document, or evidence of debt issued in connection therewith, shall be valid unless such provision is set forth in such security document, and in any evidence of debt issued in connection therewith, and such document or documents contain the following provisions:

(1) A requirement that when an increase in the interest rate is required or permitted by a movement in a particular direction of a prescribed standard an identical decrease is required in the interest rate by a movement in the opposite direction of the prescribed standard.

(2) The rate of interest shall change not more often than once during any semiannual period, and at least six months shall elapse between any two such changes.

(3) The change in the interest rate shall not exceed one-fourth of 1 percent in any semiannual period, and shall not result in a rate more than 2.5 percentage points greater than the rate for the first loan payment due after the closing of the loan.

(4) The rate of interest shall not change during the first semiannual period.

(5) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge within 90 days of notification of any increase in the rate of interest.

(6) A statement attached to the security document and to any evidence of debt issued in connection therewith printed or written in a size equal to at least 10-point bold type, consisting of the following language:

NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.

(b) (1) The provisions of this section shall be applicable only to a mortgage contract, deed of trust, real estate sales contract, or any note or negotiable instrument issued in connection therewith, when its purpose is to finance the purchase or construction of real property

containing four or fewer residential units or on which four or fewer residential units are to be constructed.

(2) This section shall not apply to unamortized construction loans with an original term of two years or less or to loans made for the purpose of the purchase or construction of improvements to existing residential dwellings.

(c) Regulations setting forth the prescribed standard upon which variations in the interest rate shall be based may be adopted by the Savings and Loan Commissioner with respect to savings and loan associations, the Superintendent of Banks with respect to banks, and the Insurance Commissioner with respect to insurers.

(d) As used in this section:

(1) "Bank" includes, but is not limited to, a national banking association.

(2) "Savings and loan association" includes, but is not limited to, a federal savings and loan association, as defined by Section 11000 of the Financial Code.

(3) "Insurer" includes, but is not limited to, a nonadmitted insurance company.

(4) "Semiannual period" means each of the successive periods of six calendar months commencing with the first day of the calendar month in which the instrument creating the obligation is dated.

(5) "Security document" means a mortgage contract, deed of trust, or real estate sales contract.

(6) "Evidence of debt" means a note or negotiable instrument.

(e) Notwithstanding the provisions of subdivision (b) of Section 1227 and subdivision (a) of Section 7150 of the Financial Code, when there is an increase in the interest rate of a loan subject to this section which is made by a commercial bank pursuant to subdivision (b) of Section 1227 of the Financial Code, or by a savings and loan association pursuant to subdivision (a) of Section 7150 of the Financial Code, the term of such loan may be extended at the option of the borrower for such additional period as may be required to amortize the loan without increasing the existing monthly payment, but not to exceed a maximum term of 40 years.

(f) The provisions of this section shall be applicable only to instruments executed on and after the effective date of this section.

(g) This section shall not apply to nonprofit public corporations.

(h) This section is not intended to apply to a loan made where the rate of interest provided for is less than the then current market rate for a similar loan in order to accommodate the borrower because of a special relationship, including, but not limited to, an employment or business relationship, of the borrower with the lender or with a customer of the lender and the sole increase in interest provided for with respect to the loan will result only by reason of the termination of that relationship or upon the sale, deed, or transfer of the property securing the loan to a person not having that relationship.

SEC. 2. Article 2 (commencing with Section 3370) of Chapter 18 of Division 1 of the Financial Code is repealed.

SEC. 3. Article 2 (commencing with Section 3370) is added to Chapter 18 of Division 1 of the Financial Code, to read:

Article 2. Loans to Executive Officers, Directors, and Employees

3370. It is the intent of the Legislature that the provisions of this article, insofar as they are contained in Regulation O (12 C.F.R. Part 215) of the Federal Reserve Board, conform, and be interpreted by anyone construing the provisions of this article to so conform, to Regulation O and, to any rule or interpretation promulgated thereunder by the Board of Governors of the Federal Reserve System, and to any interpretation issued by an official or employee of the Federal Reserve System duly authorized to issue the interpretation.

3371. As used in this article, "Regulation O" means Regulation O (12 C.F.R., Part 215) as adopted by the Board of Governors of the Federal Reserve System, including all amendments thereto in effect on January 1, 1984.

3372. Sections 215.1, 215.2, 215.3, 215.4, and 215.5 of Regulation O are hereby adopted in all of their particulars, including footnotes thereto, except as follows:

(a) The term "this Subpart," as used in the referenced sections of Regulation O, shall be construed to mean "this article."

(b) The term "member bank," as used in the referenced sections of Regulation O, shall be construed to mean:

(1) Any commercial bank or trust company incorporated under the law of this state.

(2) Any foreign bank which is licensed by the superintendent under Article 3 (commencing with Section 1750) of Chapter 13.5 to maintain a depositary agency or branch office, as defined in Section 1700, in this state, with respect to any such office.

(3) Any corporation incorporated under the laws of this state which is incorporated for the purpose of engaging in, or which is authorized by the superintendent to engage in, business under Article 1 (commencing with Section 3500) of Chapter 19.

(4) Any foreign corporation which is licensed by the superintendent under Article 1 (commencing with Section 3500) of Chapter 19 to maintain an office in this state and to transact at such office business under that article, with respect to any such office.

(c) The term "the appropriate Federal banking agency," as used in the referenced sections of Regulation O, shall be construed to mean "the superintendent."

(d) Subdivision (a), and the last sentence of subdivision (b), of Section 215.1 of Regulation O are not applicable.

(e) Subdivision (f) of Section 215.2 of Regulation O is not applicable; instead, the term "lending limit" shall be construed to mean an amount equal to the limit of obligations of a single obligor set forth in Section 1221 of this code, and any reference to subdivision (f) of Section 215.2 made within the provisions of Regulation O

which are made applicable by this section shall be considered to be a reference to Section 1221.

(f) Subdivision (g) of Section 215.2 of Regulation O is not applicable.

3373. (a) Notwithstanding any other provisions of this article, whenever Sections 215.1 to 215.5, inclusive, are amended or modified by the Board of Governors of the Federal Reserve System, the superintendent may by regulation adopt that same amendment or modification. Any regulation adopted under this section shall expire at 12 p.m. on December 31 of the year following the calendar year in which it is promulgated.

(b) For the purpose of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted under this section are subject only to the provisions of Sections 11346.1, 11346.2, and 11349.6 of the Government Code.

3374. In making any loan to an executive officer, director, or principal shareholder pursuant to this article, the bank shall comply with all other applicable provisions of this division relating to loans by banks.

3375. Notwithstanding any provision of this article or of Article 2 (commencing with Section 1220) of Chapter 10, a bank may advance money to a director, officer, employee, or agent of the bank pursuant to Section 317 of the Corporations Code.

3376. Any bank which makes a loan in knowing violation of this article is liable to a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each offense. Any director, officer, or employee of a bank, the bank holding company of which the bank is a subsidiary, or other subsidiary of that bank holding company, who knowingly makes or procures a loan in violation of this article is guilty of a felony.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. Sections 2, 3, and 4 of this act shall become operative on April 1, 1985.

CHAPTER 976

An act to amend Section 53091 of the Government Code, relating to waste water facilities.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 53091 of the Government Code is amended to read:

53091. Each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated. On projects for which state school building aid is requested by a local agency for construction of school facilities the county or city planning commission in which said agency is located shall consider in its review for approval information relating to attendance area enrollment, adequacy of the site upon which the construction is proposed, safety features of the site and proposed construction, and present and future land utilization, and report thereon to the State Allocation Board. If the local agency is situated in more than one city or county or partly in a city and partly in a county, the local agency shall comply with such ordinances of each county or city with respect to the territory of the local agency which is situated in the particular county or city and the ordinances of a county or city shall not be applied to any portion of the territory of the local agency which is situated outside the boundaries of the county or city. Notwithstanding the preceding provisions of this section, this section does not require a school district or the state when acting under the State Contract Act to comply with the building ordinances of a county or city. Notwithstanding the preceding provisions of this section, this section does not require a school district to comply with the zoning ordinances of a county or city unless such zoning ordinance makes provision for the location of public schools and unless the city or county planning commission has adopted a master plan.

Each local agency required to comply with building ordinances and zoning ordinances pursuant to this section and each school district whose school buildings are inspected by a county or city pursuant to Section 53092 shall be subject to the provisions of the applicable ordinances of a county or city requiring the payment of fees but the amount of such fees charged a local agency or school district shall not exceed the amount charged under the ordinance to nongovernmental agencies for the same services or permits. Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, waste water, or electrical energy by a local agency.

Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, or for the production or generation of electrical energy, nor to facilities which are subject to Section 12808.5 of the Public Utilities Code, nor to electrical substations in an electrical transmission system which receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency; provided, that such zoning ordinances make provision for such facilities.

CHAPTER 977

An act to add Section 1373.9 to the Health and Safety Code, and to add Sections 10180 and 11512.05 to the Insurance Code, relating to health insurance.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 1373.9 is added to the Health and Safety Code, to read:

1373.9. (a) Except in the case of a specialized health care service plan, a health care service plan which negotiates and enters into a contract with professional providers to provide services at alternative rates of payment of the type described in Sections 10133 and 11512 of the Insurance Code, shall give reasonable consideration to timely written proposals for affiliation by licensed or certified professional providers.

(b) For the purposes of this section, the following definitions are applicable:

(1) "Reasonable consideration" means consideration in good faith of the terms of proposals for affiliation prior to the time that contracts for alternative rates of payment are entered into or renewed. A plan may specify the terms and conditions of affiliation to assure cost efficiency, qualification of providers, appropriate utilization of services, accessibility, convenience to persons who would receive the provider's services, and consistency with the plan's basic method of operation, but shall not exclude providers because of their category of license.

(2) "Professional provider" means a holder of a certificate or license under Division 2 (commencing with Section 500) of the Business and Professions Code, or any initiative act referred to therein, except for those certified or licensed pursuant to Article 3 of Chapter 5 (commencing with Section 2050) or Chapter 11 (commencing with Section 4800), who may, within the scope of their

licenses, perform the services of a specific plan benefit defined in the health care service plan's contracts with its enrollees.

(c) A plan which has an affiliation with an institutional provider or with professional providers is not required by this section to give consideration to affiliation with professional providers who hold the same category of license or certificate and propose to serve a geographic area served adequately by the affiliated providers that provide their professional services as employees or agents of that institutional or professional provider, or contract with that institutional or professional provider to provide professional services.

SEC. 2. Section 10180 is added to the Insurance Code, to read:

10180. (a) A disability insurer which negotiates and enters into a contract with professional providers to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, shall give reasonable consideration to timely written proposals for contracting by licensed or certified professional providers.

(b) For the purposes of this section, the following definitions are applicable:

(1) "Reasonable consideration" means consideration in good faith of the terms of proposals for contracting prior to the time that contracts for alternative rates of payment are entered into or renewed. An insurer may specify the terms and conditions of contracting to assure cost efficiency, qualification of providers, appropriate utilization of services, accessibility, convenience to persons who would receive the provider's services, and consistency with its basic method of operation, but shall not exclude providers because of their category of license.

(2) "Professional provider" means a holder of a certificate or license under Division 2 (commencing with Section 500) of the Business and Professions Code, or any initiative act referred to therein, except for those certified or licensed pursuant to Article 3 of Chapter 5 (commencing with Section 2050) or Chapter 11 (commencing with Section 4800), who may, within the scope of their licenses, perform the services of a specific benefit defined in the insurer's policy.

(c) An insurer which has a contract with an institutional provider or with professional providers is not required by this section to give consideration to contracting with professional providers who hold the same category of license or certificate and propose to serve a geographic area served adequately by the contracting providers that provide their professional services as employees or agents of that institutional or professional provider, or contract with that institutional or professional provider to provide professional services.

SEC. 3. Section 11512.05 is added to the Insurance Code, to read:

11512.05. (a) A nonprofit hospital service plan which negotiates and enters into a contract with professional providers to provide services at alternative rates of payment pursuant to Section 11512 of the Insurance Code, shall give reasonable consideration to timely

written proposals for contracting by licensed or certified professional providers.

(b) For the purposes of this section, the following definitions are applicable:

(1) "Reasonable consideration" means consideration in good faith of the terms of proposals for contracting prior to the time that contracts for alternative rates of payment are entered into or renewed. A plan may specify the terms and conditions of contracting to assure cost efficiency, qualification of providers, appropriate utilization of services, accessibility, convenience to persons who would receive the provider's services, and consistency with the plan's basic method of operation, but shall not exclude providers because of their category of license.

(2) "Professional provider" means a holder of a certificate or license under Division 2 (commencing with Section 500) of the Business and Professions Code, or any initiative act referred to therein, except for those certified or licensed pursuant to Article 3 of Chapter 5 (commencing with Section 2050) or Chapter 11 (commencing with Section 4800), who may, within the scope of their licenses, perform the services of a specific plan benefit defined in the hospital service plan's contracts with its contract holders.

(c) A plan which has a contract with an institutional provider or with professional providers is not required by this section to give consideration to contracting with professional providers who hold the same category of license or certificate and propose to serve a geographic area served adequately by the contracting providers that provide their professional services as employees or agents of that institutional or professional provider, or contract with that institutional or professional provider to provide professional services.

CHAPTER 978

An act to add Section 30254.5 to the Public Resources Code, relating to coastal resources.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 30254.5 is added to the Public Resources Code, to read:

30254.5. Notwithstanding any other provision of law, the commission may not impose any term or condition on the development of any sewage treatment plant which is applicable to any future development that the commission finds can be accommodated by that plant consistent with this division. Nothing in this section modifies the provisions and requirements of Sections

30254 and 30412.

CHAPTER 979

An act to add Section 71010 to the Government Code, relating to courts.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 71010 is added to the Government Code, to read:

71010. (a) A board of supervisors may authorize a management review of a municipal or justice court in that county. The board shall select the agency to perform the review.

(b) At least 30 days before the scheduled beginning of the management review, the board shall notify the presiding judge of the court to be reviewed of the review and of the identity of the reviewing agency selected by the board. The court may object to the board's choice of a reviewing agency within 30 days of this notification.

(c) If the court does object to the board's choice, the board and the court shall, within 30 days of the objection, select a reviewing agency acceptable to both board and court. If the board and court fail to agree on a reviewing agency within the 30 days, the management review shall not take place.

(d) Management reviews conducted pursuant to this section shall not infringe on the judicial duties or the decisions of the court which is the subject of the review. Recommendations resulting from such reviews shall not infringe on the judicial duties or the decisions of the court which is the subject of the review and shall be advisory only. The reviewing agency shall have no power of enforcement.

CHAPTER 980

An act to amend Sections 71380, 71382, and 71383 of the Government Code, and to amend Sections 1203.1 and 1463.18 of, and to add Section 1462.5 to, the Penal Code, relating to courts.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 71380 of the Government Code is amended to read:

71380. The State Controller shall establish, supervise, and as necessary revise a uniform accounting system, including a system of audit, to the end that all fines, penalties, forfeitures, and fees assessed by courts, and their collection and appropriate disbursement, shall be properly and uniformly accounted for. The accounting system shall apply to superior courts, municipal courts and justice courts, together with probation offices, central collection bureaus and any other agencies having a role in this process.

SEC. 2. Section 71382 of the Government Code is amended to read:

71382. Every judge of a superior court, municipal court or justice court, or the clerk of any such court, who willfully fails to keep accounts pursuant to the system or to account for the money paid into and disbursed by his court pursuant to the system established by the Controller pursuant to this article is guilty of a misdemeanor.

SEC. 3. Section 71383 of the Government Code is amended to read:

71383. The accounts of each superior court, municipal court, and justice court shall be audited at least biennially. The county auditor shall be responsible for seeing that such an audit is conducted and shall supply the Controller with a certified copy of each such audit within six months after the close of the fiscal year for which the audit is conducted. The audit shall review the collection and disbursement activities of the courts, probation offices, central collection bureaus, and other agencies having a role in this process. If the accounts of any superior court, municipal court, or justice court are not audited biennially, the Controller may audit them. If such audit is requested by the board of supervisors the cost of such audit shall be paid from the general fund of the county in which such court is situated. The Controller shall review these audits. Costs incurred by the Controller for monitoring audits other than those reimbursed by counties, shall be reimbursed from the Assessment Fund commencing with the 1985–86 fiscal year as provided in the Budget Act.

SEC. 4. Section 1203.1 of the Penal Code, as amended by Section 1 of Chapter 215 of the Statutes of 1984, is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the

period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department. In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost-effective to do so, but in no event shall restitution disbursements be delayed beyond 90 days from the date the payment is received by the probation department. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county. In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent

education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

Notwithstanding any other provisions of law to the contrary, except as provided in Sections 13967 and 13967.5 of the Government Code and Sections 1202.4, 1203.04, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 2 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

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

SEC. 5. Section 1203.1 of the Penal Code, as amended by Section 2 of Chapter 215 of the Statutes of 1984, is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and

conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may provide public work and fix the scale of compensation of the adult probationers in that county. In all cases of probation the court is authorized to require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach and generally and specifically for

the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

Notwithstanding any other provision of law to the contrary, except as provided in Sections 13967 and 13967.5 of the Government Code and Sections 1202.4, 1203.04, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 2 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

This section shall become operative on January 1, 1989.

SEC. 6. Section 1462.5 is added to the Penal Code, to read:

1462.5. Each installment or partial payment of a fine, penalty, forfeiture or fee shall be prorated among the state and local shares according to the uniform accounting system established by the State Controller pursuant to Section 71380 of the Government Code. In cases subject to Section 1463.18 of the Penal Code, proration shall not occur until the minimum amounts have been transferred to the Restitution Fund as provided in that section.

SEC. 7. Section 1463.18 of the Penal Code is amended to read:

1463.18. (a) Notwithstanding the provisions of Section 1463, moneys which are collected for a conviction of a violation of Section 23152 or 23153 of the Vehicle Code and which are required to be deposited with the county treasurer pursuant to Section 1463 shall be allocated as follows:

(1) The first twenty dollars ($20) of any amount collected for a conviction shall be transferred to the Restitution Fund. This amount shall be aggregated by the county treasurer and transferred to the

State Treasury once per month for deposit in the Restitution Fund.

(2) The balance of the amount collected, if any, shall be deposited by the county treasurer pursuant to Section 1463.

(b) The amount transferred to the Restitution Fund pursuant to this section shall be in addition to any amount of any additional fine or assessment imposed pursuant to Section 13967 of the Government Code. The amount deposited to the Restitution Fund pursuant to this section shall be used for the purpose of indemnification of victims pursuant to Section 13965 of the Government Code, with priority given to victims of alcohol-related traffic offenses.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 9. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 10. The provisions in this act requiring audits of superior courts are declaratory of existng law.

CHAPTER 981

An act to amend Section 40002 of, to amend and repeal Section 40001 of, and to add Sections 4766 and 40002.1 to, the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 4766 is added to the Vehicle Code, to read:

4766. (a) Except as provided in subdivisions (b) and (c), the department shall refuse to renew the registration of any vehicle for which a notice of noncompliance has been transmitted to the department pursuant to subdivision (a) of Section 40002.1 if no certificate of adjudication therefor has been received by the department pursuant to those provisions. The department shall include on each registration card to be issued upon registration renewal, or on an accompanying document, an itemization of offenses for which notices of noncompliance have been received by the department pursuant to subdivision (a) of Section 40002.1, including the jurisdiction that issued the underlying notice pursuant

to subdivision (b) of Section 40002 and the administrative service fee for clearing the offense pursuant to subdivision (b) of this section.

(b) Upon application for renewal of vehicle registration for a vehicle subject to subdivision (a), the department shall not refuse registration renewal pursuant to subdivision (a) if the applicant, with respect to each outstanding certificate of noncompliance, (1) provides the department with a certificate of adjudication for the offense issued pursuant to subdivision (a) of Section 40002.1 and (2) pays an administrative service charge, which shall be established by the department to, in the aggregate, defray its costs in administering this section.

(c) Whenever registration of a vehicle subject to subdivision (a) is transferred or not renewed for two renewal periods, the department shall so notify each court which transmitted a notice of noncompliance affecting the vehicle and the department shall not thereafter refuse registration renewal pursuant to subdivision (a).

SEC. 2. Section 40001 of the Vehicle Code is amended to read:

40001. (a) It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law.

(b) It is unlawful for an owner to request, cause, or permit the operation of any vehicle:

(1) Which is not registered or for which any fee has not been paid under this code.

(2) Which is not equipped as required in this code.

(3) Which does not comply with the size, weight, or load provisions of this code.

(4) Which does not comply with the regulations promulgated pursuant to this code, or with applicable city or county ordinances adopted pursuant to this code.

(5) Which is not in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and the rules and regulations of the State Air Resources Board.

(c) Whenever a violation is chargeable to the owner or lessee of a vehicle pursuant to subdivision (a) or (b), the driver shall not be arrested or cited for the violation unless the vehicle is registered in a state or country other than California, or unless the violation is for an offense that is clearly within the responsibility of the driver. The Department of the California Highway Patrol shall report to the Legislature on or before January 1, 1988, concerning the effects of this subdivision.

(d) Whenever the owner or lessee is prosecuted for a violation pursuant to the provisions of this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance or operation of the vehicle, a codefendant. In the event the codefendant is held solely responsible and found guilty, the court

may dismiss the charge against the owner or lessee.

(e) This section shall remain in effect only until January 1, 1990, and as of that date is repealed unless a later enacted statute which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, this section shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 40002 of the Vehicle Code is amended to read:

40002. (a) Whenever a written notice to appear has been mailed to an owner of a vehicle or other person referred to in Section 40001, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, is a complaint to which the defendant may plead "guilty."

If, however, the defendant fails to appear in court or does not deposit lawful bail, or pleads other than "guilty" of the offense charged, a complaint shall be filed which shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, and which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) A warrant of arrest shall not be issued against an owner of a vehicle or other person referred to in Section 40001 following the filing of a complaint for an offense under that section if the owner or person was not driving the vehicle involved unless the owner or other person is given notice of the offense charged and is informed that unless he or she appears in the court designated in the notice within 10 days after service of the notice and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded or a warrant may be issued against him or her. The notice shall be given as prescribed by Section 22.

SEC. 4. Section 40002.1 is added to the Vehicle Code, to read:

40002.1. (a) Whenever any person has failed to appear in the court designated in the notice specified in subdivision (b) of Section 40002, for a period of 15 or more days following personal service of the notice or deposit in the mail pursuant to Section 22, the magistrate or clerk of the court may give notice of that fact to the department. Except as provided in subdivision (b), the court shall provide this notice of noncompliance to the department within 30 days following expiration of the 15-day period. Whenever thereafter the matter is adjudicated, including a dismissal of the charges upon forfeiture of bail or otherwise, the magistrate or clerk of the court hearing the matter shall immediately (1) endorse a certificate to that effect, (2) provide the person or the person's attorney with a copy of the certificate, and (3) transmit a copy of the certificate to the department.

(b) No notice of noncompliance may be transmitted to the department pursuant to subdivision (a) if a warrant of arrest has been issued on the same offense pursuant to subdivision (b) of Section 40002. No warrant of arrest may be issued pursuant to subdivision (b) of Section 40002 if a notice of noncompliance has been transmitted to the department on the same offense pursuant to this section, except that, when a notice has been received by the court pursuant to subdivision (c) of Section 4766 or recalled by motion of the court, a warrant may then be issued.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. This act shall become operative on July 1, 1985.

CHAPTER 982

An act to add Section 39671.5 to the Education Code, relating to school districts.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 39671.5 is added to the Education Code, to read:

39671.5. Moneys transferred into the general fund of any school district pursuant to Section 1463.12 of the Penal Code may be made available for the following purposes:

(a) The training of persons employed and compensated as members of a police department of a school district, pursuant to the requirements or approval of the Commission on Peace Officer Standards and Training.

(b) The training of persons employed and compensated as members of a police department of a school district in other public safety skills, including, but not limited to, all of the following:

(1) First aid.

(2) Rescue.

(3) Cardiopulmonary resuscitation.

(4) Emergency medical technician training.
(5) Juvenile procedures.
(6) Specialized safety equipment.

CHAPTER 983

An act to amend Section 19161 of, to add Section 19089.5 to, and to repeal and add Section 19161.3 of, the Business and Professions Code, relating to flammability standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 10, 1984.]

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

SECTION 1. Section 19089.5 is added to the Business and Professions Code, to read:

19089.5. Any upholstered furniture or mattress which is made from or contains nonflame retardant cellular foam shall be labeled in a manner approved by the chief.

SEC. 2. Section 19161 of the Business and Professions Code is amended to read:

19161. All mattresses manufactured for sale in this state, including any mattress manufactured for sale for use in a hotel, motel, or other place of public accommodation in this state, shall be fire retardant. All upholstered furniture sold or offered for sale by a manufacturer or wholesaler for use in this state, including any upholstered furniture sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to which filling materials are added, shall be fire retardant and shall be labeled in a manner specified by the bureau. "Fire retardant," as used in this section, means a product that meets the regulations adopted by the bureau.

SEC. 3. Section 19161.3 of the Business and Professions Code is repealed.

SEC. 4. Section 19161.3 is added to the Business and Professions Code, to read:

19161.3. All flexible polyurethane foam in the form of slabs, blocks, or sheets, or which is shredded (loose or packaged), except polyurethane foam sold for use as carpet underlayment and polyurethane foam which cannot reasonably be expected to be used in or as an article of furniture or a mattress, that is offered for sale to the general public at retail outlets in this state for noncommercial or nonmanufacturing purposes, shall be fire retardant. "Fire retardant" as used in this section, means a product that meets the regulations adopted by the bureau.

SEC. 5. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify the labeling requirements for flexible polyurethane foam, it is necessary for this act to go into immediate effect.

CHAPTER 984

An act to amend Sections 12852, 13345, 13346, and 13347 of the Public Utilities Code, relating to municipal utility districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

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

12852. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code, the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code and on the discount set forth in Section 54418 of the Government Code, and the requirements for refunding revenue bonds set forth in Sections 53573, 53583, 54388, and 54661 of the Government Code do not apply to the issuance and sale of bonds pursuant to this article. Whenever a district proposes to exercise the power to issue bonds pursuant to this article, the board shall adopt a preliminary resolution declaring its intention to authorize the issuance of bonds, which resolution shall specify all of the following:

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

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

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

(d) The maximum rate of interest to be payable upon the bonds which rate shall be determined by the board.

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

SEC. 2. Section 13345 of the Public Utilities Code is amended to read:

13345. Whenever the board, by resolution adopted by a four-fifths vote of all members of the board of a five-ward district, or by a five-sevenths vote of all members of the board of a seven-ward district, finds and determines that any part of the works of the district has been damaged or demolished by reason of fire, flood, earthquake, sabotage, or act of God or the public enemy, and that the cost of

repairing or replacing the works so damaged or demolished is too great to be paid out of the ordinary annual income and revenue of the district, and that the public interest requires the incurring of indebtedness for the purposes set forth in the resolution, the board may authorize the incurring of indebtedness for this purpose pursuant to this chapter.

SEC. 3. Section 13346 of the Public Utilities Code is amended to read:

13346. Whenever the board makes the finding and determination as described in Section 13345, the district may borrow money and incur indebtedness by the issuance of bonds, notes, or other securities as provided in this chapter by action of the board and without the necessity of calling and holding an election in the district. These evidences of indebtedness shall constitute general obligations of the district or shall be payable solely from revenues of the district as the board may determine in the resolution authorizing their issuance. The indebtedness may be incurred for any purpose for which the district is authorized to expend funds.

The indebtedness incurred under this chapter shall be evidenced by bonds, notes, or other evidences of indebtedness maturing in not to exceed five years from their date, shall bear interest at the rate or rates fixed by the board, and may be issued and sold at a public or private sale as the board may direct. All other terms and conditions of these evidences of indebtedness shall be fixed by the board. The maximum principal amount of all general obligation indebtedness outstanding under this chapter shall not, at any one time, exceed 1 percent of the assessed valuation of the property within the district taxable for district purposes.

The board may authorize and issue refunding notes for the purpose of paying and redeeming at or before maturity any notes previously issued and then outstanding. However, these refunding notes shall not be in excess of the limitation of indebtedness provided in this section and shall mature in not to exceed five years from the dates of the original indebtedness. Refunding notes may in turn be refunded under similar terms and conditions, except that no refunding note shall mature in excess of five years from the date of the original indebtedness.

SEC. 4. Section 13347 of the Public Utilities Code is amended to read:

13347. Indebtedness incurred pursuant to this chapter shall be payable from any sources of available funds, including revenues, taxes, or state or federal grants. The board may levy and collect taxes upon all property in the district subject to taxation by the district without limitation of rate or amount for the payment of any evidences of general obligation indebtedness incurred pursuant to this chapter and the interest thereon. These taxes shall be in addition to all other taxes levied for district purposes and shall be levied at the same time and in the same manner as other district taxes are levied and, when collected, shall be deposited in a special fund and shall be

used only for the payment of the principal of and interest on this indebtedness. The board shall apply for any federal or state funds available for purposes of repairing or replacing works damaged or demolished by reason of fire, flood, earthquake, sabotage, or act of God or the public enemy.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The public utility facilities of municipal utility districts are vital to the health, safety, and economic well being of the residents served by those districts. These facilities are vulnerable to damage and disruption by reason of events which are unpredictable but which may occur at any time, including fire, flood, earthquake, sabotage, or act of God. In order that municipal utility districts will have the means to finance the repair of damage resulting from any of these emergencies, it is necessary that this act take effect immediately.

CHAPTER 985

An act to amend Section 12814.5 of the Vehicle Code, relating to driver's licenses.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 12814.5 of the Vehicle Code is amended to read:

12814.5. (a) At the discretion of the director, drivers' licenses expiring on or after January 1, 1983, may, subject to subdivision (b), be renewed by mail for a four-year period for licensees, not holding a probationary license, whose records, for the four years immediately preceding the determination of the eligibility for the renewal, show no convictions of violating traffic laws, no involvement in a traffic accident, and no notification of a violation of subdivision (a) of Section 40509.

A driver's record that shows involvement in not more than one traffic accident within any two-year period preceding driver's license renewal shall not be considered to be involvement in a traffic accident for purposes of this subdivision if (1) the driver met the requirements of Chapter 1 (commencing with Section 16000) of Division 7 with respect to the accident and (2) the driver was not cited for any violation of this code in connection with the accident.

No renewal by mail shall be granted to any person who is 70 years of age or older.

(b) The director may establish a demonstration program to

evaluate the traffic safety and other effects of renewing driver's licenses by mail. If a demonstration program is established, the director may, under that program, renew by mail driver's licenses expiring on or after January 1, 1983, for licensees whose records, for the two years immediately preceding the determination of the eligibility for the renewal, show no convictions of violating traffic laws, no involvement in a traffic accident, and no notification of a violation of subdivision (a) of Section 40509, and additionally whose records, for the four years immediately preceding that determination, do not show a violation which has a violation point count of two determined in accordance with Section 12810 or a fatal accident notation. The department shall terminate the demonstration program when its evaluation is completed or may terminate the program at any time the department determines that the program has an adverse impact on traffic safety.

(c) The department shall charge a fee of ten dollars ($10) for each license renewal granted pursuant to subdivision (a) or (b).

(d) The department shall monitor and conduct a continuing study of the effects of the license renewal by mail under subdivisions (a) and (b) and submit an interim report to the Legislature not later than January 1, 1986, and a final report to the Legislature not later than March 1, 1989, on its findings. The study shall include, but not be limited to, safety issues. The final report shall specifically include information regarding the impact on traffic safety of persons who receive a second extension under subdivision (b), which information shall cover a period not less than 24 months of experience following the second consecutive extension.

(e) The department shall notify each licensee granted a renewal by mail pursuant to this section of major changes to the Vehicle Code affecting traffic laws occurring during the prior four-year period.

(f) The department shall not renew a driver's license by mail if the license has been previously renewed by mail two consecutive times for four-year periods.

CHAPTER 986

An act to amend Section 4021 of the Penal Code, relating to county jails.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 4021 of the Penal Code is amended to read:

4021. (a) Whenever any female prisoner or prisoners are confined in any local detention facility in the state there shall be an appropriately trained female custodial person assigned, available,

and accessible for the supervision of the female prisoners.

(b) It shall be unlawful for any officer, station officer, jailer, or custodial personnel to search the person of any prisoner of the opposite sex, or to enter into the room or cell occupied by any prisoner of the opposite sex, except in the company of an employee of the same sex as the prisoner. Except as provided herein, the provisions of this subdivision shall not be applied to discriminate against any employee by prohibiting appointment or work assignment on the basis of the sex of the employee.

As used in this subdivision "station officer" means an unarmed civilian employee who assists a peace officer in the processing of persons who have been arrested and who performs duties including, but not limited to, booking and fingerprinting and maintaining custody and control of persons who have been arrested.

As used in this subdivision, "employee" means a deputy sheriff, correctional officer, custodial officer, medical staff person or designated civilian employee whose duties may include, but are not limited to, maintaining custody and control of persons who have been arrested or sentenced, or both.

CHAPTER 987

An act to add Section 27803 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 27803 is added to the Vehicle Code, to read:

27803. (a) A driver who is under 15 years and six months of age and any passenger who is under 15 years and six months of age shall wear a safety helmet meeting requirements established pursuant to Section 27802 when riding on a motorcycle or motorized bicycle.

(b) It is unlawful to operate a motorcycle or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).

(c) It is unlawful to ride as a passenger on a motorcycle or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).

(d) This section applies to persons who are riding on motorcycles or motorized bicycles operated on the highways.

(e) For the purposes of this section, "wear a safety helmet" or "wearing a safety helmet" means having a safety helmet meeting the requirements of Section 27802 on the person's head that is fastened with the helmet straps and that is of a size that fits the wearing person's head securely without excessive lateral or vertical

movement.

(f) It is the intent of the Legislature in enacting this section, to ensure that children are provided with an additional safety benefit while operating or riding a motorcycle or motorized bicycle. Nothing in this section applies to a class of children or adults other than those specified in this section.

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

CHAPTER 988

An act to amend Sections 123, 124, 126, 2194, 2195, 2607, 2612, 2612.5, 2703, 2922, 3351, 3352, 3361, 3362, 3365, 3366, 3371, 3372, 3375, 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3443, 3443.5, 3444, 3446, 3447, 3448, 3451, 3452, 3691, 3692, 3695.3, 3695.5, 3700, 3701, 3707, 3710, 3731, 3791, 3791.3, 3791.4, 3792, 3793, 3797, 3799, 3807.5, 4101, 4102, 4103, 4105.2, 4105.3, and 4112 of, to amend and renumber Sections 3512.1, 3514, 3516, and 3519 of, to add Sections 3691.1 and 3691.2 to, to repeal Sections 127, 3510, 3511, 3512, 3513, 3514.5, 3515, 3517, 3518, 3520, and 3522 of, and to repeal Chapter 5 (commencing with Section 3591) and Chapter 6 (commencing with Section 3651) of Part 6 of Division 1 of, the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 123 of the Revenue and Taxation Code is amended to read:

123. "Amount of defaulted taxes" on property means the sum of the following amounts:

(a) The amount of taxes which were a lien on the real estate at the time of the declaration of default.

(b) All other unpaid taxes of every description which were a lien on the property for the year of declaration of default and for each year since the declaration of default, as shown on the delinquent rolls for which the time of the declaration of default is past, or, if the property was not assessed for any year, which would be shown on such delinquent roll if it had been assessed in that year; except that the unpaid taxes which would be shown on such delinquent roll if the

property had been assessed in any such year shall not be paid if the property was not assessed for any year because of having been acquired by the state or other public agency other than by tax deed. The amount of taxes for any year not assessed shall be based on the valuation required to be made by the assessor on redemption of unassessed property.

SEC. 1.1. Section 124 of the Revenue and Taxation Code is amended to read:

124. "Current taxes" means taxes which are a lien on property, but which are not included in "amount of defaulted taxes" except that, between a lien date and the time in the same calendar year when property is declared to be tax-defaulted, the taxes becoming a lien on this lien date in such calendar year are not yet "current taxes."

SEC. 1.5. Section 126 of the Revenue and Taxation Code is amended to read:

126. "Tax-defaulted property" is real property which is subject to a lien for taxes which, by operation of law and by declaration of the tax collector, are in default and from which the lien of the taxes for which it was declared tax-defaulted has not been removed. Where used in this division or in any other provision of law,

(a) Any reference to property tax sold or tax deeded to the state shall refer to tax-defaulted property.

(b) Any reference to the sale to the state shall refer to the declaration of default.

(c) Any reference to the deeding to the state shall refer to property which is subject to a power of sale for nonpayment of taxes.

SEC. 2. Section 127 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 2194 of the Revenue and Taxation Code is amended to read:

2194. Except as otherwise provided in this chapter, the judgment is satisfied and the lien removed when, but not before, either of the following occur:

(a) The tax is paid or legally canceled.

(b) The property is sold to satisfy the tax lien.

SEC. 4. Section 2195 of the Revenue and Taxation Code is amended to read:

2195. After 30 years succeeding the time, heretofore or hereafter, when any tax becomes a lien, if the lien has not been otherwise removed, the lien ceases to exist and the tax is conclusively presumed to be paid. The official having charge of the records of the tax shall mark it "Conclusively presumed paid." Property which has been tax defaulted for nonpayment of taxes is not subject to the provisions of this section.

SEC. 5. Section 2607 of the Revenue and Taxation Code is amended to read:

2607. The entire tax on real property may be paid when the first installment is due or at any time thereafter until the properties on

the current roll become tax defaulted. The second installment may be paid separately only if the first installment has been paid. The tax collector shall accept payment of current year taxes even though prior year delinquencies on the real property may exist. The acceptance of that payment shall not affect the validity of any sale in satisfaction of a lien for defaulted taxes.

SEC. 6. Section 2612 of the Revenue and Taxation Code is amended to read:

2612. On the tax bill for tax-defaulted property shall appear in writing the fact that prior year taxes are in default. The tax bill may contain language such as "prior year taxes delinquent," "prior year taxes in default," "unpaid prior year taxes jeopardize property," or any other language which would indicate the fact that the property is in jeopardy as a result of delinquent prior year taxes.

SEC. 7. Section 2612.5 of the Revenue and Taxation Code is amended to read:

2612.5. The tax collector shall issue separate tax bills for tax-defaulted property and property which is not tax delinquent.

Where tax-defaulted property and property which is not tax delinquent have been included or combined in one assessment, the tax collector may request the assessor to make a separate valuation of each such property, and the assessor shall within 10 days from and after the date of any such request make each such valuation and notify the auditor thereof.

SEC. 8. Section 2703 of the Revenue and Taxation Code is amended to read:

2703. The entire tax on the secured roll may be paid when the first half is due. The first half may be paid separately when the first half is due or at any time thereafter until the properties on the current roll become tax defaulted. The second half may be paid separately only if the first half has been paid. The tax collector shall accept payment of current year taxes even though prior year delinquencies on the real property may exist. The acceptance of that payment shall not affect the validity of any sale in satisfaction of a lien for defaulted taxes.

SEC. 9. Section 2922 of the Revenue and Taxation Code is amended to read:

2922. (a) Taxes on the unsecured roll as of July 31st if unpaid are delinquent August 31st at 5 p.m., and thereafter a delinquent penalty of 10 percent attaches to them. Taxes added to the unsecured roll after July 31st, if unpaid are delinquent at 5 p.m. on the last day of the month succeeding the month in which the assessment was added to the unsecured roll and thereafter a delinquent penalty of 10 percent attaches to them, except that taxes transferred to the unsecured roll pursuant to any provision of law, to which penalties had attached while on the secured roll and also were transferred, shall be subject only to the additional penalties prescribed by subdivision (b) if such transferred taxes are unpaid by 5 p.m. of the last day of the second succeeding month after the taxes are

transferred; provided however, that taxes transferred to the unsecured roll at the time taxes unpaid on the secured roll are in default, shall be subject to additional penalties beginning July 1 and on the first day of each month thereafter. If August 31st or the last day of any month falls on Saturday, Sunday, or a legal holiday, and if payment is received by 5 p.m. of the next business day, the 10-percent penalty shall not attach.

(b) If taxes on the unsecured roll are unpaid by 5 p.m. of the last day of the second succeeding month after the 10-percent penalty attaches pursuant to subdivision (a), an additional penalty of 1½ percent attaches to them on the first day of each month thereafter to the time of payment or to the time a court judgment is entered for the amount of the unpaid taxes and penalties, whichever occurs first. If the last day of any month falls on Saturday, Sunday, or a legal holiday, the additional penalty of 1½ percent shall attach after 5 p.m. on the next business day.

(c) If the last day of any month falls on Saturday, Sunday, or legal holiday and if taxes on the unsecured roll are unpaid by 5 p.m. of the last day of the first succeeding month after the 10-percent penalty attaches pursuant to subdivision (a), an additional penalty of 1½ percent attaches to them on the first day of each month thereafter to the time of payment or to the time a court judgment is entered for the amount of the unpaid taxes and penalties, whichever occurs first.

SEC. 10. Section 3351 of the Revenue and Taxation Code is amended to read:

3351. Annually, on or before June 8th, the tax collector shall publish a notice of impending default for failure to pay taxes on real property, except tax-defaulted property and possessory interests, the taxes, assessments, penalties, and costs on which will have not been fully paid by 5 p.m. on the last business day of the fiscal year.

SEC. 11. Section 3352 of the Revenue and Taxation Code is amended to read:

3352. The notice shall be in the form of an affidavit and shall show:

(a) That unless paid, the amount due shall be in default.

(b) The time at which the default will occur by operation of law.

(c) The fact that if tax defaulted, the real property may be redeemed by the payment of the amount of defaulted taxes together with such additional penalties and fees as prescribed by law, or that the real property may be redeemed under an installment plan of redemption.

(d) The fact that tax-defaulted real property will be subsequently sold in satisfaction of the tax lien unless that property is redeemed or an installment plan of redemption is initiated and maintained.

(e) The fact that a publication of a detailed listing of all real property which is tax defaulted will be initiated on or before September 8th, unless that property is sooner redeemed.

SEC. 12. Section 3361 of the Revenue and Taxation Code is

amended to read:

3361. Annually, on or before June 8th, the tax collector shall publish a notice of power and intent to sell all property which will be tax defaulted for five years or more on the date specified.

SEC. 13. Section 3362 of the Revenue and Taxation Code is amended to read:

3362. The published notice shall show:

(a) The date of the notice.

(b) That on the date specified, five years or more will have elapsed since the property became tax defaulted.

(c) That, unless sooner redeemed or an installment plan of redemption is initiated, the property will be sold.

(d) The date and time at which the power to sell for nonpayment of taxes arises.

(e) That if the property is sold for nonpayment of taxes the right of redemption will terminate.

(f) The official who will furnish all information concerning redemption.

(g) The fiscal year for which the defaulted taxes were levied.

(h) A description of the property. The assessments contained in this notice shall be numbered in ascending numerical order.

(i) The amount of taxes originally declared in default opposite the description of the property.

(j) The name of the assessee on the current roll.

(k) The street address of the property, if any, shown on the county assessment records.

SEC. 14. Section 3365 of the Revenue and Taxation Code is amended to read:

3365. After the first publication of the notice and not less than 21 days nor more than 35 days before the date the power to sell for nonpayment of taxes arises, the tax collector shall send by registered mail to the last assessee of the tax-defaulted property at his or her last known address a notice of default and power to sell the property for nonpayment of taxes. The tax collector shall make a reasonable effort to ascertain the address of the last assessee of the tax-defaulted property, including, but not limited to, an examination of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll, an examination of the most recent telephone books in the county in which the tax-defaulted property is located, and an examination of the telephone book covering the area of the last known address of the last assessee.

Any failure of the tax collector to make a reasonable effort to ascertain the address of the last assessee as required by this section shall not affect the validity of any subsequent sale to satisfy the lien of unpaid taxes.

SEC. 15. Section 3366 of the Revenue and Taxation Code is amended to read:

3366. The mailed notice shall show the same information

required for the published notice in Section 3362. A copy of the published notice may be mailed in lieu of a separate notice.

SEC. 16. Section 3371 of the Revenue and Taxation Code is amended to read:

3371. Annually, on or before September 8th, the tax collector shall publish the affidavit that the real property on which the taxes, assessments, penalties, and costs had not been fully paid are in default together with a list of all such real property.

SEC. 17. Section 3372 of the Revenue and Taxation Code is amended to read:

3372. The notice shall show:

(a) The affidavit of tax default.

(b) The fact that the real property may be redeemed by the payment of the amount of defaulted taxes together with such additional penalties and fees as prescribed by law, or that the real property may be redeemed under an installment plan of redemption.

(c) The official who will furnish all information concerning redemption.

(d) The following information relating to each assessment of tax-defaulted property:

(1) The name of the assessee, and where there is more than one valuation the name of the assessee need be listed only once. For the purposes of this section, the name of the assessee may be the name of the assessee as shown on the current roll.

(2) The description of the property.

(3) The total amount which was originally declared in default.

(4) The street address of the property, if any, shown on the county assessment records.

This information required to be published is the "published delinquent list." If any property on the published delinquent list is redeemed, the information relating to the property may be omitted from any subsequent publications.

SEC. 18. Section 3375 of the Revenue and Taxation Code is amended to read:

3375. The tax collector shall notify the Controller, in such manner as the Controller shall direct, of all property subject to a "Notice of Lien for Postponed Property Taxes" recorded pursuant to Section 16182 of the Government Code, which:

(a) Becomes tax defaulted subsequent to the date of entry on the secured roll of the information required by paragraph (1) of subdivision (a) of Section 2514; or

(b) Becomes subject to those collection procedures that are available for collection of delinquent taxes or assessments on the unsecured roll.

SEC. 19. Section 3436 of the Revenue and Taxation Code is amended to read:

3436. On or before June 30, at the time fixed in the publication of the notice of impending default, the taxes, assessments, penalties,

and costs on real property except tax-defaulted property and possessory interests, which have not been paid shall by operation of law and declaration of the tax collector be declared in default.

SEC. 20. Section 3437 of the Revenue and Taxation Code is amended to read:

3437. The amount due on any property may be paid until the time of the declaration of default if it was separately valued on the secured roll.

SEC. 21. Section 3438 of the Revenue and Taxation Code is amended to read:

3438. If the tax collector discovers before the declaration that because of any error the tax on a parcel of real property should not be declared in default, he or she shall not declare it in default and the board of supervisors shall cause the assessor to enter the uncollected taxes on the next roll, to be collected like other taxes on that roll.

SEC. 22. Section 3439 of the Revenue and Taxation Code is amended to read:

3439. In appropriate columns on the delinquent roll, or the secured roll if the delinquent roll has been dispensed with, opposite each parcel separately valued the taxes on which have been declared in default, the tax collector shall enter "tax defaulted," the date of the declaration, and the total amount declared to be in default.

SEC. 23. Section 3440 of the Revenue and Taxation Code is amended to read:

3440. Immediately after the declaration of default, the tax collector shall transmit to the Controller a statement, in the form desired by the Controller, showing in detail the amount declared in default and the property affected.

SEC. 24. Section 3441 of the Revenue and Taxation Code is amended to read:

3441. Every person who does any act tending permanently to impair the value of tax-defaulted property is guilty of a misdemeanor and is liable for any damages sustained by the county or public agency because of his or her act. Those acts include, but are not limited to, the removal, destruction, or cutting of any improvements or timber. On request of the tax collector of the county where any part of the property is located, the district attorney of the same county shall:

(a) Prosecute for the commission of the misdemeanor.

(b) In the name of the people, sue for damages sustained by the county.

SEC. 25. Section 3442 of the Revenue and Taxation Code is amended to read:

3442. Within 30 days after the declaration of default, the tax collector shall furnish the auditor with a list of all tax-defaulted property. The auditor shall enter on the current roll immediately after the description of the property the fact and date of declaration of default.

SEC. 26. Section 3443 of the Revenue and Taxation Code is amended to read:

3443. The tax collector shall transmit the list of property to the assessor who shall enter on his or her records the fact and date of the declaration of default.

SEC. 27. Section 3443.5 of the Revenue and Taxation Code is amended to read:

3443.5. In lieu of the procedure specified in Section 3443, where a machine-prepared roll is used, the fact and date of the declaration of default may be entered upon the reproduced roll.

SEC. 28. Section 3444 of the Revenue and Taxation Code is amended to read:

3444. If the original declaration of default by operation of law is ever canceled or held void, the property shall be treated for all purposes as if in default in the next subsequent year for which it would have been validly declared in default but for the previous declaration of default.

SEC. 29. Section 3446 of the Revenue and Taxation Code is amended to read:

3446. Where the abstract list or other system of control in a county obviates the need for the detailed statement required under Section 3440 and the transmittal of redemption certificates and notices to the Controller with respect to tax-defaulted property under Sections 4106 and 4803, the Controller may:

(a) Authorize the tax collector to transmit to the Controller in lieu of the detailed statement required under Section 3440, a summary statement following the declaration of default setting forth the time, the date, number of tax-defaulted parcels, dates of publication of delinquent list and notice of impending default, and other appropriate information.

(b) Authorize the tax collector to transmit to the Controller prior to the notice to the Controller of power to sell a detailed list of the tax-defaulted properties which remain unredeemed, the dates and forms of which the Controller shall prescribe.

(c) Authorize the tax collector to discontinue the transmittal of redemption certificates and notices to the Controller under Sections 4106 and 4803 with respect to tax-defaulted property only. When the property has been tax defaulted for more than five years the transmittal of redemption certificates and notices to the Controller under Sections 4106 and 4803 shall be made.

SEC. 30. Section 3447 of the Revenue and Taxation Code is amended to read:

3447. If the detailed statement required under Section 3440 has been made to the Controller prior to the effective date of the authorizations provided for in this article, the redemption certificates and notices under Sections 4106 and 4803 with respect to those tax-defaulted properties not yet tax defaulted for five years or more need not be transmitted by the tax collector, but the tax collector shall be required to furnish the detailed list of unredeemed

properties prior to the date on which the power of sale arises.

If on the effective date of this section the detailed statement required under Section 3440 has not been made to the Controller for the 1967 sale to the state, the Controller may issue the authorizations provided for under Section 3446.

SEC. 31. Section 3448 of the Revenue and Taxation Code is amended to read:

3448. Where the system of control in the county no longer is operative or is found by the Controller to be inadequate, or where the tax collector fails to comply with the requirements of Section 3446, the authorizations may be rescinded by the Controller 30 days after notice is mailed to the tax collector. Upon rescission of the authorization, the tax collector shall furnish the Controller, in the same form as prescribed under Section 3440, a complete list of all tax-defaulted properties which remained unredeemed on the effective date of such rescission, and the tax collector shall, from and after the effective date of the rescission, transmit to the Controller all the redemption certificates and notices provided for under Sections 4106 and 4803.

SEC. 32. Section 3451 of the Revenue and Taxation Code is amended to read:

3451. The tax collector may in his or her discretion accept negotiable paper in payment for tax-defaulted property and tax-defaulted property sold at public auction.

SEC. 33. Section 3452 of the Revenue and Taxation Code is amended to read:

3452. The acceptance of negotiable paper constitutes payment for tax-defaulted property and tax-defaulted property sold at public auction as of the date of acceptance when, but not before, the negotiable paper is duly paid.

When negotiable paper is so accepted, the deed to the property so purchased shall not be delivered until that negotiable paper is duly paid.

SEC. 34. Section 3510 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 3511 of the Revenue and Taxation Code is repealed.

SEC. 36. Section 3512 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 3512.1 of the Revenue and Taxation Code is amended and renumbered to read:

3691.3. By June 15 of the year property is to become subject to a power of sale under Section 3691, the assessor shall furnish to the tax collector a metes and bounds or lot-block-tract description of the property.

SEC. 38. Section 3513 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 3514 of the Revenue and Taxation Code is amended and renumbered to read:

3691.4. The notice to the Controller shall be recorded with the county recorder. After recordation, the notice shall be forwarded to the Controller. The recorder shall make no charge for the recording, except that in counties where the county recorders are paid no salaries, but fees only, the recorders shall receive for filing, recording, and indexing each notice the sum of seventy-five cents ($0.75), payable like other claims against the county.

SEC. 40. Section 3514.5 of the Revenue and Taxation Code is repealed.

SEC. 41. Section 3515 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 3516 of the Revenue and Taxation Code is amended and renumbered to read:

3691.5. The Controller shall file the notice in his or her office and keep a record to show the subsequent disposition of the property.

SEC. 43. Section 3517 of the Revenue and Taxation Code is repealed.

SEC. 44. Section 3518 of the Revenue and Taxation Code is repealed.

SEC. 45. Section 3519 of the Revenue and Taxation Code is amended and renumbered to read:

3517. It is hereby declared to be the policy of the state and the intent of the provisions in this code contained, that the final tax deed or deeds of all taxing agencies, including counties, cities and counties, cities, irrigation districts, reclamation districts, and other taxing agencies that annually levy, assess and collect, or cause to be collected, taxes or assessments upon real property within the state, should be, and are hereby declared to be, upon a parity with each other, and that regardless of when the levy of such taxes or assessments is or has been made, and regardless of when the final tax deed or assessment deed is or has been taken by such taxing agency, that the rights of all taxing agencies and all such deeds shall be equal and upon a parity with each other.

SEC. 46. Section 3520 of the Revenue and Taxation Code is repealed.

SEC. 47. Section 3522 of the Revenue and Taxation Code is repealed.

SEC. 48. Chapter 5 (commencing with Section 3591) of Part 6 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 49. Chapter 6 (commencing with Section 3651) of Part 6 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 50. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. Five years or more after the property becomes tax-defaulted, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property which has not been redeemed without regard to the boundaries of the parcels as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or

existing lien on, claim to or interest in the property, may purchase at the sale.

When a part of a tax-defaulted parcel is sold the balance continues subject to redemption, if the right of redemption has not been terminated, and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2, Part 7, Division 1 of this code, except that no application need be made.

SEC. 51. Section 3691.1 is added to the Revenue and Taxation Code, to read:

3691.1. The tax collector shall notify the Controller whenever a parcel becomes subject to the power of sale set forth in Section 3691 on a form prescribed and provided by the Controller.

SEC. 52. Section 3691.2 is added to the Revenue and Taxation Code, to read:

3691.2. The notice to the Controller shall specify:

(a) That five years or more have elapsed since the taxes or assessments on the parcel were declared in default.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) That the property is subject to sale for nonpayment of taxes.

(d) The amount of taxes originally declared to be in default, unless there has been a partial cancellation of taxes, a redemption from a portion thereof, or a correction under Sections 4831.5 and 4876.5, in any of which events, the amount shall be the balance remaining.

(e) A metes and bounds or lot-block-tract description of the property.

SEC. 53. Section 3692 of the Revenue and Taxation Code is amended to read:

3692. The tax collector shall attempt to sell tax-defaulted property as provided in this chapter within two years of the time that the property becomes subject to sale for nonpayment of taxes unless by other provisions of law the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than four years until the property is sold.

(a) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the tax-deeded interest is a partial interest or, where the tax-deeded interest is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(b) When parcels which are rendered unusable by their size, location or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel at a minimum bid to owners of contiguous parcels.

Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (a) or (b), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30

days or until notice is given pursuant to Section 3702, whichever is later.

SEC. 54. Section 3695.3 of the Revenue and Taxation Code is amended to read:

3695.3. As used in Section 3695, "assessments" does not include assessments which were, at the time of the declaration of default or sale to the taxing agency, not included in the amount required to redeem the property.

SEC. 55. Section 3695.5 of the Revenue and Taxation Code is amended to read:

3695.5. In addition to the provisions of Sections 3695 and 3695.4 relative to objections to sales, any nonprofit organization may file with the county tax collector and county board of supervisors written objection to the sale for taxes of any residential or vacant real property which the nonprofit organization states in writing that it will rehabilitate and will:

(a) In the case of residential real property, rehabilitate and sell the property to low-income persons; or

(b) In the case of vacant real property, either construct a residential dwelling on the property and sell the property to low-income persons or dedicate the vacant property to public use.

Such objections shall be accompanied by an application to purchase the property under Chapter 8 (commencing with Section 3771) of this part, which shall be filed with the board of supervisors and the tax collector before the intended sale. If a nonprofit organization objects to the sale and before the date of sale applies in writing to the board of supervisors to purchase the property under Chapter 8 (commencing with Section 3771) of this part at a price not less than the minimum bid approved by the board of supervisors, the tax collector shall not proceed with the sale.

The terms "nonprofit organization," "low-income persons" and "rehabilitation" shall have the same meaning in this section as in Chapter 8 (commencing with Section 3771).

SEC. 56. Section 3700 of the Revenue and Taxation Code is amended to read:

3700. On receipt of the copy of the resolution approving the sale the tax collector shall forward:

(a) Two copies to the Controller for his authorization.

(b) One copy to the clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property. Such copy or copies shall be mailed or delivered at least 30 days before the first publication or posting of the notice of intended sale; provided, however, where the tax collector has on file a consent from each taxing agency and the authorization from the Controller he may proceed to publish or post the notice of sale.

No person shall have any cause of action against the state or any state officer or employee on account of the authorization from the Controller.

SEC. 57. Section 3701 of the Revenue and Taxation Code is amended to read:

3701. After receiving the written authorization of the Controller, and not less than 45 days nor more than 60 days before the proposed sale, the tax collector shall send notice of the proposed sale by registered mail to the last known mailing address, if available, of parties of interest, as defined in Section 4675. The contents of the notice shall include the date, time, and place of the proposed sale, the amount required to redeem prior to the time of sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from such sale.

The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

SEC. 58. Section 3707 of the Revenue and Taxation Code is amended to read:

3707. (a) If not previously terminated, on completion of any sale under this chapter the right of redemption is terminated.

(b) Notwithstanding any other provision of law, any remittance sent by mail for redemption of tax-defaulted property must be received in the tax collector's office prior to the completion of any sale under this chapter.

SEC. 59. Section 3710 of the Revenue and Taxation Code is amended to read:

3710. In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:

(a) That the legally levied taxes on the subject property were duly declared to be in default and were a lien on the property.

(b) That the tax collector, pursuant to a statutory power of sale, has sold the property at public auction.

(c) That no taxing agency objected to the sale. (If a taxing agency did object, state: That (name of each objecting taxing agency) objected to the sale).

(d) The name of the purchaser, the date of sale, and the amount for which the property was sold.

(e) That the property is therefore conveyed to the purchaser according to law.

SEC. 60. Section 3731 of the Revenue and Taxation Code is amended to read:

3731. The purchaser of tax-defaulted property, upon execution of a quitclaim deed to the assessee reconveying to the assessee all the right, title and interest of the assessee in the property which such purchaser obtained by the deed of the tax collector under the provisions of this chapter, is entitled to a refund of the amount paid as purchase price whenever it is determined by the board of

supervisors, and upon written approval of the district attorney, that the property should not have been sold for taxes. The refund shall be made in the same manner as a refund of an overpayment of tax.

The county clerk shall take acknowledgment of the quitclaim deed, without a charge, and it shall be delivered to the county tax collector, who shall forthwith record said quitclaim deed with the county recorder.

After being recorded, the quitclaim deed shall be forwarded to the Controller; and, thereafter, such property shall be held as tax-defaulted property, and all the provisions of law relating to tax-defaulted property shall apply to such quitclaim deeds.

SEC. 61. Section 3791 of the Revenue and Taxation Code is amended to read:

3791. Whenever property tax defaulted for five years or more has been sold for taxes for two or more years or has been deeded for taxes to a taxing agency other than the state, the governing body of the taxing agency may, as provided in this article, make an agreement with the board of supervisors of the county in which the property is situated for the purchase of, or for an option to purchase, all or any of the tax-defaulted property or any part thereof including a right-of-way or other easement. When a part of a tax-defaulted parcel is sold the balance continues subject to redemption, if the right of redemption has not been terminated, and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7 of this division, except that no application need be made.

SEC. 62. Section 3791.3 of the Revenue and Taxation Code is amended to read:

3791.3. Whenever property has been tax defaulted for five years or more, whether or not the property is subject to or has been sold or deeded for taxes to a taxing agency other than the state, the state, county, any revenue district the taxes of which on the property are collected by county officers, or a redevelopment agency created pursuant to the California Community Redevelopment Law, may purchase the property or any part thereof, including any right-of-way or other easement, pursuant to this chapter. A redevelopment agency, however, may only purchase such tax-defaulted property located within a designated survey area.

SEC. 63. Section 3791.4 of the Revenue and Taxation Code is amended to read:

3791.4. (a) When residential or vacant property has been tax defaulted for five years or more, that property may be purchased pursuant to this chapter by a nonprofit organization provided that:

(1) In the case of residential property, the nonprofit organization shall rehabilitate and sell the property to low-income persons.

(2) In the case of vacant property, the nonprofit organization shall either construct a residential dwelling on the property and sell the property to low-income persons or dedicate the vacant property to public use.

(b) If a nonprofit organization purchases the property pursuant to subdivision (a), the agreement under this chapter shall require the nonprofit organization to meet the conditions prescribed by subdivision (a) within two (2) years after the date of recordation of the deed to the nonprofit organization, which period may be extended by resolution of the board of supervisors for a reasonable length of time. Upon granting of an extension, notice of the extension shall be given by the clerk of the board of supervisors to the tax collector and the Controller.

(c) The terms and conditions of any conveyance to a nonprofit corporation pursuant to this section shall be specified in the deed or other instrument of conveyance.

SEC. 64. Section 3792 of the Revenue and Taxation Code is amended to read:

3792. If property tax defaulted for more than five years has been sold for taxes for two or more years or has been deeded for taxes to two or more taxing agencies, they may make a joint agreement with the board of supervisors under this article. The joint agreement may provide for the conveyance of all or any interest in the property to one of them or to any combination of them.

SEC. 65. Section 3793 of the Revenue and Taxation Code is amended to read:

3793. Any agreement under this article may:

(a) Cover any tax-defaulted property without regard to the boundaries of the parcels which were assessed.

(b) Provide for sale of various portions of the property at various prices and on various terms and for an option to purchase any remaining portion.

(c) Notwithstanding any other provision of law, provide for the price and the terms for which the property may be purchased.

SEC. 66. Section 3797 of the Revenue and Taxation Code is amended to read:

3797. The notice of agreement shall state:

(a) A description of the property substantially as described in the agreement.

(b) The name of the last assessee of the property. To ascertain the name of the last assessee of the tax-defaulted property an examination shall be made of the assessment of this property on the last equalized roll, or if this property does not appear thereon, the last previous roll on which it was assessed.

(c) That an agreement for the sale of the property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the taxing agency or nonprofit organization named in the agreement and has been approved by the Controller.

(d) That a copy of the agreement is on file in the office of the board of supervisors.

(e) If the right to redeem the property has not already been terminated, there shall also be a statement that unless the property

is redeemed before the agreement becomes effective, the right of redemption will cease.

(f) The date and time that the agreement will become effective.

(g) That parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds received by the tax collector under the agreement which are in excess of the liens and costs required to be paid from the proceeds.

(h) If excess proceeds result from the agreement, notice will be given to parties of interest pursuant to law.

SEC. 67. Section 3799 of the Revenue and Taxation Code is amended to read:

3799. The tax collector shall mail a copy of the notice not less than 45 nor more than 60 days prior to the effective date of the agreement, by registered mail to the last assessee of each portion of the property and to parties of interest, as defined in Section 4675, at their last known address.

To ascertain the address of the last assessee of the tax-deeded property an examination shall be made of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll. The tax collector shall make reasonable efforts to ascertain the identity and address of parties of interest.

It is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of a copy of the notice or a waiver of the notice. The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive mailed notice.

SEC. 68. Section 3807.5 of the Revenue and Taxation Code is amended to read:

3807.5. If a taxing agency or nonprofit organization purchasing the property, pursuant to Section 3791.4 or Section 3793.5, does not meet the conditions imposed by Section 3791.4 or Section 3793.5 within two years after the date of recordation of the deed to the taxing agency or nonprofit organization, and not within any extension of such period approved by the board of supervisors, the taxing agency or nonprofit organization shall execute a deed to the assessee reconveying to the assessee all the right, title and interest of the assessee in the property which such taxing agency or nonprofit organization obtained by the deed of the tax collector under the provisions of this chapter. Such deed shall be delivered to the county tax collector. Thereafter, such property shall be held as tax-defaulted property and the privilege of redemption is thereby restored.

The Controller shall provide uniform blanks on which such reconveyances shall be made. There shall be the same number of duplicates as is required for the notice to the Controller of power to sell, and the same procedure shall be followed in recording such deeds as is provided by law for the recording of the notice to the

Controller of power to sell.

SEC. 69. Section 4101 of the Revenue and Taxation Code is amended to read:

4101. Tax-defaulted property may be redeemed until the right of redemption is terminated.

SEC. 70. Section 4102 of the Revenue and Taxation Code is amended to read:

4102. The amount necessary to redeem shall be paid in lawful money of the United States and is the sum of the following:

(a) The amount of defaulted taxes.

(b) Delinquent penalties and costs.

(c) Redemption penalties.

(d) A redemption fee of one dollar and fifty cents ($1.50) on each separately valued parcel tax defaulted after June 13, 1947, and prior to June 13, 1969. A redemption fee of two dollars ($2) on each separately valued parcel tax defaulted after June 12, 1969, and prior to January 1, 1979. A redemption fee of five dollars ($5) on each separately valued parcel sold to the state after January 1, 1979, and prior to January 1, 1984, and a redemption fee of fifteen dollars ($15) on and after that date. On property tax defaulted prior to June 13, 1947, there shall be no redemption fee collected.

SEC. 71. Section 4103 of the Revenue and Taxation Code is amended to read:

4103. Redemption penalties are the sum of the following:

(a) Beginning July 1st of the year of the declaration of tax default, on the declared amount of defaulted taxes at the time of sale, 1½ percent a month to the time of redemption.

(b) Beginning July 1st of each subsequent year, on the unpaid taxes for which the property would have been declared in default if there had not been a previous declaration, 1½ percent a month to the time of redemption. If the last day of any month falls on Saturday, Sunday, or a legal holiday, the additional penalty of 1½ percent shall attach after 5 p.m. on the next business day.

SEC. 72. Section 4105.2 of the Revenue and Taxation Code is amended to read:

4105.2. Upon redemption, the tax collector shall issue certificates of redemption in the required number of copies which, with the approval of the Controller as to form, shall show:

(a) The year of default.

(b) A description of the property.

(c) In detail, the amounts to be paid.

(d) The name of the person making the payment.

(e) The date of redemption.

SEC. 73. Section 4105.3 of the Revenue and Taxation Code is amended to read:

4105.3. Notwithstanding the provisions of Section 4105.2, on resolution of the board of supervisors and with the approval of the Controller, the tax collector shall issue a certificate of redemption which will show:

(a) The year of default.

(b) The description of the property being redeemed.

(c) In the event a portion of the property is redeemed, the certificate shall show that portion being redeemed.

(d) The total amount of defaulted taxes.

(e) The total amount of tax required to redeem.

(f) The total amount of penalties and costs required to redeem.

Notwithstanding any other provisions of this code, where no physical document of the extended redemption certificate is prepared, all entries required to be made on the extended certificate shall be so stored that it can be made readily available to the public in an understandable form.

SEC. 73.5. Section 4112 of the Revenue and Taxation Code is amended to read:

4112. (a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect the following, in addition to the amount required to redeem:

(1) A fee of thirty-five dollars ($35) which shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675; and

(2) A fee of six dollars ($6) which shall be distributed to the county recorder for recordation of a rescission of such notice, as required by subdivision (b).

(b) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge, and after recordation shall be forwarded to the Controller.

SEC. 74. (a) Whenever there has been a sale to the state or a deed to the state under the provisions of Division 1 (commencing with Section 101) of the Revenue and Taxation Code on or prior to the effective date of this act, and the right to redeem the property subject to the sale or deed has not been terminated, the sale or deed to the state shall be canceled as of the effective date of this act. Any such property sold to the state shall be deemed "tax-defaulted" property as of the date of its sale to the state. Any such property deeded to the state shall be deemed "tax-defaulted" property as of the date of its sale to the state and shall be subject to a power of sale for nonpayment of taxes. Simultaneously with the cancellation of any tax deed to the state, the lien for delinquent taxes on the real property shall revive. That lien shall have priority over all other liens on the real property, regardless of the time of creation.

(b) For purposes of subdivision (a), the tax collector, for and on behalf of the state, shall execute and record with the county recorder of the county in which the property is located a release of equity or

quitclaim of the property, in the form prescribed by the Controller. The release shall be acknowledged by the county clerk, without charge. Parties of interest in the property, prior to the issuance of the tax deed to the state shall acquire by the cancellation of the tax deed the same right or interests they had prior to the issuance of the tax deed, as if the tax deed were never issued. That right or interest shall be subject to the lien for taxes.

SEC. 75. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 76. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 77. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid jeopardizing the receipt of delinquent property tax revenues and to provide for the effective administration of the laws relating to tax-defaulted property as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 989

An act to add Section 26739 to the Government Code, relating to courts.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 26739 is added to the Government Code, to read:

26739. The fee for the preparation and execution of a declaration of reasonable diligence in support of any document served pursuant to Section 415.20 of the Code of Civil Procedure is fourteen dollars ($14).

CHAPTER 990

An act to amend Section 65950 of, and to add Section 65863.9 to, the Government Code, relating to local development.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 65863.9 is added to the Government Code, to read:

65863.9. Unless an earlier expiration appears on the face of the permit, any permit which is issued by a local agency in conjunction with a tentative subdivision map for a planned unit development shall expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later.

Local coastal development permits issued by a local agency in conjunction with a tentative subdivision map for a planned unit development shall expire no sooner than the approved tentative map, and any extension of the map shall be in accordance with the applicable local coastal program, if any, which is in effect.

SEC. 2. Section 65950 of the Government Code is amended to read:

65950. Any public agency which is the lead agency for a development project for which an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code shall approve or disapprove the project within one year from the date on which an application requesting approval of the project has been received and accepted as complete by that agency. If a negative declaration is adopted or if the project is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, the development project shall be approved or disapproved within six months from the date on which an application requesting approval of the project has been received and accepted as being complete by that agency, unless the project proponent requests an extension of the time limit. As specified in Sections 21100.2 and 21151.5 of the Public Resources Code, the period specified in those sections shall also begin on that date.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 991

An act to add Section 1463.03 to the Penal Code, and to amend Sections 5536 and 5782.18 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 1463.03 is added to the Penal Code, to read:

1463.03. Notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month, to the treasurer of any recreation and park district in the county for deposit in the district fund, an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction of any person or upon the forfeiture of bail from any person arrested or notified by a peace officer of the district and charged with a violation of any rule, regulation, or ordinance of the district committed on property owned, administered, or controlled by the district, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 2. Section 5536 of the Public Resources Code is amended to read:

5536. (a) The board shall establish rules for its proceedings.

(b) The board may provide, by ordinance or resolution, that each of its members may receive an amount not to exceed one hundred dollars ($100) per day for each attendance at public meetings of the board. Board members shall not receive any other compensation, and no board member shall receive more than five hundred dollars ($500) compensation under this section in any one calendar month. A board member may elect to waive the per diem. In addition, the board may provide, by ordinance or resolution, that each of its members not otherwise eligible for an employer-paid or partially employer-paid group medical or group dental plan, or both, may participate in any of those plans available to permanent employees of the district on the same terms available to those district employees or on terms and conditions as the board may determine. A board member who elects to participate in any plan may also elect to have the premium for the plan charged against his or her per diem and may further elect to waive the balance of the per diem.

(c) The board shall fill all vacancies on the board, including those caused by the death or resignation of a member, or the establishment of new wards; but, whenever a vacancy exists for 30 days, the Governor shall fill the vacancy. The person appointed to fill any vacancy shall hold office for the remainder of the unexpired term of his or her predecessor; except that, in the case of newly created

wards, the directors shall, prior to making appointments, determine by lot, for the purpose of fixing the terms of the first directors to be elected in the wards, which ward shall have a four-year term and which ward shall have a two-year term, and the persons appointed to fill vacancies caused by the establishment of new wards shall hold office until the next general election following their appointment and until their successors are elected and qualified for the terms previously determined by lot.

SEC. 3. Section 5782.18 of the Public Resources Code is amended to read:

5782.18. Each member of the district board may receive such sum as may be fixed by the board, not exceeding one hundred dollars ($100) for each meeting of the board attended by the member, not exceeding two meetings in any calendar month.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 992

An act to amend Section 21682 of the Public Utilities Code, relating to aeronautics.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 21682 of the Public Utilities Code is amended to read:

21682. (a) The department shall establish individual revolving fund subaccounts for eligible airports in the Aeronautics Account in the State Transportation Fund. Money payable under this section shall be credited to individual airport subaccounts annually, and may be accumulated for a maximum period of five years. The department may advance to the subaccount of an airport an amount that will raise the total in the subaccount to not more than twenty-five thousand dollars ($25,000) when it finds and determines that to do so will materially assist the public entity in meeting the qualifications

for federal airport loans or grants and that sufficient funds will remain in the account to make all of the credits and payments required under subdivision (b). Whenever an advance is made to a subaccount, the department shall withhold not more than the amount of the five thousand dollars ($5,000) annual payment under this section each year until the advancement plus interest is fully recovered. Interest shall be calculated at the same rate as that earned on funds invested in the Pooled Money Investment Account during the period of the advance. If any airport fails to maintain eligibility at any time during the five-year period, the public entity shall repay that amount which the department determines is attributable to the period of the airport's ineligibility under the terms and conditions specified by the department, taking into consideration, among other things, the amount to be repaid.

(b) The department shall, subject to Section 21684, credit from the Aeronautics Account to each public entity owning and operating an airport or airports under a valid permit issued by the department for every airport which has less than 85,000 annual enplanements the sum of five thousand dollars ($5,000) annually for each qualifying airport. These funds shall be paid to public entities upon request for expenditure on preapproved eligible projects. Eligible public entities may submit applications for the withdrawal of credited funds for expenditure on proposed projects in letter form to the department for review and approval. Projects identified shall be for airport and aviation purposes and operation and maintenance purposes. Payment under this section is conditioned upon each public entity proving to the satisfaction of the department that no more than 85,000 enplanements occurred at each airport for which funding is being sought. No payment made under this section is transferable, but shall be expended only upon the airport for which the payment is made, unless the department grants a waiver in extenuating circumstances. The department may establish any accounting systems it deems necessary to provide for the cumulation and expenditure of funds under this subdivision.

(c) If, in any year, there is insufficient money in the Aeronautics Account to make the credits specified in subdivision (b), the department shall, subject to Section 21684, credit to each public entity subaccount an amount which is equal to the total amount of money in the Aeronautics Account multiplied by a percentage equivalent to the proportion which the airport or airports of the public entity for which credit is required to be made pursuant to subdivision (b) bear to the total number of airports for which credit is required to be made pursuant to subdivision (b).

(d) No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct these activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

(e) The department shall adopt rules and regulations and establish procedures to effect prompt payment to public entities for eligible airport projects from money credited pursuant to this section.

CHAPTER 993

An act to amend, repeal, and add Section 21208 of the Public Contract Code, relating to public contract bids.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 21208 of the Public Contract Code is amended to read:

21208. (a) In its discretion, the public agency may reject any bids presented. If after the first invitation for bids all bids are rejected, the public agency shall state the reasons for the rejection, and after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received, the project may be performed by employees of the public agency by force account, or by informal bidding procedures set forth in Section 21204 without further complying with this article.

(d) Any statement of reasons for the rejection of all bids made pursuant to subdivision (a) shall not constitute a new cause of action separate and apart from any existing remedies which may be available to the bidders.

This section shall remain in effect only until January 1, 1991, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends such date.

SEC. 2. Section 21208 is added to the Public Contract Code, to read:

21208. (a) In its discretion, the public agency may reject any bids presented. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received, the project may be performed by the employees of the public agency by force account, or by informal bidding procedures set forth in Section 21204 without further complying with this article.

This section shall become operative on January 1, 1991.

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

CHAPTER 994

An act to amend Section 1182.2 of the Labor Code, relating to employees.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984]

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

SECTION 1. Section 1182.2 of the Labor Code is amended to read:

1182.2. (a) The Legislature finds that the hours and days of work of employees employed in California in the seasonal ski industry are subject to fluctuations which are beyond the control of their employers. The Legislature further finds that the economic interests of these employees are best served when minimum limitations are placed upon their hours and days of work. Accordingly, no employer who operates a ski establishment shall be in violation of any provision of this code or any applicable order of the Industrial Welfare Commission by instituting a regularly scheduled workweek of not more than 56 hours, provided that any employee shall be compensated at a rate of not less than one and one-half times the employee's regular rate of pay for any hours worked in excess of 56 hours in any workweek.

(b) As used in this section, "ski establishment" means an integrated, geographically limited recreational area comprised of the basic skiing facilities, together with all operations and facilities related thereto.

(c) This section shall apply only during any month of the year when Alpine or Nordic skiing activities, including snowmaking and grooming activities, are actually being conducted by the ski establishment.

CHAPTER 995

An act to amend Sections 5404 and 5784 of the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 5404 of the Food and Agricultural Code is amended to read:

5404. (a) If, after service of the notice pursuant to this chapter, the commissioner determines that the nuisance constitutes an immediate hazard to adjoining or nearby property, and that great or irreparable injury would result from delay until expiration of the time required by law for constructive notice, he or she may forthwith abate the nuisance by eradicating, controlling, or destroying the pest.

(b) For purposes of this section, cotton, which is being produced in violation of a host-free period declared pursuant to Article 5 (commencing with Section 5781) of Chapter 8 of this part, is a nuisance.

(c) The commissioner shall take summary abatement action against any cotton found in violation of a planting date established as part of a host-free period. The person producing the cotton shall be given not more than 48 hours to commence abatement of the nuisance and shall be given not more than five days to complete abatement.

(d) If the person producing the cotton fails to commence and complete abatement within the time specified by the commissioner pursuant to subdivision (c), the commissioner shall abate the nuisance by disking to a depth of six inches. The person who produced the cotton shall pay 150% of all costs associated with the commissioner's abatement of the nuisance.

(e) The commissioner may request that the district attorney assist him or her in expediting summary abatements pursuant to this section.

SEC. 2. Section 5784 of the Food and Agricultural Code is

amended to read:

5784. (a) The regulations adopted by the director upon the establishment of a cotton host-free period or district for a particular pest shall, insofar as practical, be uniform and shall be uniformly enforced in all cotton host-free periods or districts established for that pest. Any exemptions or variances thereafter shall be extended to all other districts or periods unless the director finds that it will be detrimental to the eradication or effective control of the particular pest to do so.

(b) Any violation of this article or any regulation adopted pursuant thereto relating to the eradication or control of cotton pests is an infraction punishable pursuant to this section. Any punishment, other than a fine, imposed on or after July 1, 1977, pursuant to these provisions shall be terminated.

(c) Any person producing cotton in violation of cotton plowdown dates adopted pursuant to this article is subject to a fine of five hundred dollars ($500). Each acre not in compliance is a separate additional violation subject to a fine of five dollars ($5) per acre of land not in compliance.

(d) Any person producing cotton in violation of cotton planting dates adopted pursuant to this article is subject to a fine of five hundred dollars ($500). Each acre not in compliance is a separate additional violation subject to a fine of fifty dollars ($50) per acre of land not in compliance.

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

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the enforcement provisions of the cotton pest abatement law be in effect by the 1984 cotton plowdown date of December 20, 1984, it is necessary that this act take effect immediately.

CHAPTER 996

An act to amend Section 14583 of, and to add Sections 40574, 40575, 40576, 42796, and 52006 to, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 14583 of the Food and Agricultural Code is amended to read:

14583. Failure to submit a tonnage report of commercial fertilizer and agricultural minerals sales on or before the date specified by the director by regulation, shall subject the licensee to payment of a penalty of fifteen dollars ($15).

SEC. 2. Section 40574 is added to the Food and Agricultural Code, to read:

40574. The director shall appoint an alternate for each committee member. In making these appointments, the director shall use the same criteria in selecting alternates as the regular members.

SEC. 3. Section 40575 is added to the Food and Agricultural Code, to read:

40575. Alternate members shall serve at committee meetings only in the absence of the member for whom the alternate is designated to serve in place of.

SEC. 4. Section 40576 is added to the Food and Agricultural Code, to read:

40576. Each member of the committee, or any alternate member serving in the absence of a regular member, may, with the approval of the director, be reimbursed for the actual and necessary expenses incurred in the performance of his or her official duties. However, a member or alternate member may not receive any other consideration for serving on the committee. The reimbursement shall be made at the rate permitted under the rules of the State Board of Control.

SEC. 5. Section 42796 is added to the Food and Agricultural Code, to read:

42796. (a) This section applies to lots of fruits, nuts, and vegetables imported into California which have not been sold, offered for sale, distributed in this state, or have not otherwise entered commercial distribution channels in this state.

(b) When the director or a commissioner finds a lot of fruits, nuts, or vegetables which fails to comply with this division, or regulations adopted pursuant thereto, and the person in possession requests permission to hold the lot for shipment out of state, the director or commissioner may, by permit, authorize the lot to be so held and transported, in full or as partial lots. The director or commissioner may charge a fee to cover any costs incurred for the permit and related inspections to determine compliance with this division.

SEC. 6. Section 52006 is added to the Food and Agricultural Code, to read:

52006. The director may assess a penalty of 1.5 percent per month, or fraction thereof, on any fees owed to the department for

services rendered under this chapter whenever payment is not received within 30 days after the date of the invoice. The penalty shall be added to the original fee. In no event shall the total penalty for any one billed service exceed 50 percent of the original amount due for that service.

CHAPTER 997

An act to amend Sections 1360.1 and 1542 of the Financial Code, to amend Sections 16430, 16522, and 53651 of the Government Code, and to amend Section 1192.1 of the Insurance Code, relating to investments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 1360.1 of the Financial Code is amended to read:

1360.1. In bonds, notes or other obligations issued by the Federal Financing Bank, the United States Postal Service, or issued or assumed by the International Bank for Reconstruction and Development, the Tennessee Valley Authority, the Inter-American Development Bank, the Government Development Bank for Puerto Rico, the Asian Development Bank, or the African Development Bank.

SEC. 2. Section 1542 of the Financial Code is amended to read:

1542. Security deposited with the State Treasurer by trust companies pursuant to Section 1540 or 1541 shall consist of the following:

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

(b) Bonds of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest or in registered warrants of the State of California.

(c) Bonds and revenue securities of any city, county, city and county, political subdivision, public corporation, or district of the State of California (herein referred to generally as "public corporations"), and of any department, board, agency, or authority of any such public corporation, which qualify as an investment for the funds of commercial banks under the provisions of Article 4 (commencing with Section 1335) of Chapter 10 of this division.

(d) Bonds of any state of the United States which qualify as an investment for the funds of commercial banks under the provisions

of Article 4 (commencing with Section 1335) of Chapter 10 of this division.

(e) Loans secured by a first lien on real property and otherwise complying with the provisions of subdivision (a) of Section 1227.

(f) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank.

SEC. 3. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

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

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

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

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California, municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an

investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or savings and loan association or by a state-licensed branch of a foreign bank. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or the Government Development Bank of Puerto Rico.

(*l*) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

SEC. 4. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district,

bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section

2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or the Government Development Bank of Puerto Rico.

(j) Any municipal securities, as defined by Section 3(a) (29) of the Securities Exchange Act of June 6, 1934 (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

SEC. 5. Section 53651 of the Government Code is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures,

consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under said act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of such department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided such obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, the Asian Development Bank, or the African Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(*l*) Bonds and notes of the California Housing Finance Agency

issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds upon improved residential real property located in California, provided that:

(1) The promissory notes are, notwithstanding Section 53652, at all times in an amount in value at least 50 percent in excess of the amount deposited with the depository;

(2) The Treasurer issues regulations establishing procedures for determining the value of the promissory notes, and the local agency administrator develops standards and procedures necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by the promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance any such bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

(o) Any municipal securities, as defined by Section 3(a) (29) of the Securities Exchange Act of June 6, 1934 (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

SEC. 6. Section 1192.1 of the Insurance Code is amended to read:

1192.1. Excess funds investments may be made in bonds, notes or other obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, or the Inter-American Development Bank, or the Government Development Bank for Puerto Rico, or the Asian Development Bank, or the African Development Bank. Investments held under the authority of this section at any one time shall not be in excess of 2½ percent of the insurer's admitted assets or an amount equal to 25 percent of the total of the capital and surplus of such insurer, whichever is the lesser. Percentage or dollar value of assets and surplus as provided herein shall be determined by the insurer's last preceding annual statement of conditions and affairs filed with the commissioner pursuant to law.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The investments authorized by this bill will become available in the fall of 1984, at which time the African Development Bank will make a bond offering. In order to allow public investors to participate in these investments as soon as possible and to perform the necessary fiscal analysis in a timely manner, it is necessary that this act take immediate effect.

CHAPTER 998

An act to amend Section 35003 of, to add Section 20045.5 to, to add Chapter 4.95 (commencing with Section 36447) to Part 6 of Division 13 of, and to repeal Section 35152.6 of, the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 20045.5 is added to the Water Code, to read:

20045.5. The limitation contained in Section 20045 shall not be applicable to bond issues of the Santa Margarita Water District which are secured by a policy of debt service insurance or other credit enhancement acceptable to the Treasurer.

SEC. 1.5. Section 35003 of the Water Code is amended to read:

35003. Each voter shall have one vote for each dollar's worth of land to which he or she holds title. The last equalized assessment book of the district is conclusive evidence of ownership and of the value of the land so owned except that in the event that an assessment for a district shall not have been made and levied for the year in which the election is held, the last equalized assessment roll of each affected county shall be used in lieu of the assessment book of the district. However, the board may determine by resolution that the assessment book or equalized assessment roll of each affected county shall be corrected to reflect, in the case of transfers of land, those persons who as of the 45th day prior to the election appear as owners on the records of the county.

SEC. 2. Section 35152.6 of the Water Code is repealed.

SEC. 3. Chapter 4.95 (commencing with Section 36447) is added to Part 6 of Division 13 of the Water Code, to read:

CHAPTER 4.95. ALTERNATIVE PROVISIONS FOR THE ISSUANCE OF BONDS OF IMPROVEMENT DISTRICTS

36447. This chapter shall apply to the Irvine Ranch Water District and the Santa Margarita Water District. As used in this chapter, "district" means the Irvine Ranch Water District or the Santa Margarita Water District.

36447.1. Bonds for two or more improvement districts of the district may be issued and sold as consolidated bonds of the district in substantially the same manner and upon the same terms and conditions as bonds of the entire district, subject to all of the following conditions:

(a) The consolidated bonds shall specify the included amount of par value issued on behalf of each improvement district, and the remaining authorized bonds of each improvement district shall be reduced by its respective included amount so specified.

(b) In advance of the sale of consolidated bonds, the board shall find that the sale of the included bonds as consolidated bonds shall not increase the cost that any improvement district will pay for its included bonds over the cost it would have paid had its bonds been sold separately.

(c) The maximum portion of any assessment for the payment of each series of the consolidated bonds and the interest thereon that may be obtained from annual assessments to be levied upon and collected from lands within each improvement district shall be the proportion which the par value of the included bonds of the improvement district bears to the total par value of that series of the consolidated bonds.

(d) The board shall include in the resolution providing for issuance of each series of consolidated bonds provisions to insure that assessments to be levied upon and collected from lands within each included improvement district shall be limited to the amount required to pay the improvement district's proportional share as determined under subdivision (c), except to the extent that provision for payment of that share has been made by the board, as may be permitted by law, and that the improvement district's share shall not be collected or paid for, or pledged to the payment of, any other included improvement district's proportional share.

(e) The board shall include in the resolution providing for issuance of each series of consolidated bonds provisions to insure that the proceeds of the consolidated bonds disbursed into the fund provided for in Section 35998.1 are apportioned within the fund according to each included improvement district's share determined under subdivision (c), so that separate apportionments are accounted for and used for the purposes of the respective improvement districts in the manner contemplated by Section 36427.

(f) The board shall include in the resolution providing for issuance of each series of consolidated bonds provisions to insure that any

bond reserve fund established pursuant to Sections 35910 and 35911 is established proportionately for each of the included improvement districts and, to the extent the fund must be used, that moneys in the fund shall be disbursed only to the extent of the share apportioned therein to the improvement district on whose behalf it is disbursed, and that any charges or annual assessments used to establish the bond reserve fund shall be set aside within the bond reserve fund only to the account of the improvement district from which they were obtained.

(g) If the consolidated bonds include provisions for redemption, the board shall also include in the resolution providing for issuance provisions to insure that any moneys collected from within the improvement districts to establish a redemption fund shall be limited to each improvement district's proportional share of the consolidated bonds as determined in subdivision (c).

(h) The consolidated bonds shall be issued in the name of the district and, if general obligation bonds, shall be designated "Bonds of _____ Water District," and each bond shall state that it is issued on behalf of the included improvement districts whose respective shares of the par value shall be specified, and shall state that the assessment for payment thereof shall be limited to annual assessments to be levied upon and collected from the lands within each of the specified improvement districts in the stated proportions of the total par value, except to the extent that provision for that payment has been made by the board as may be permitted by law.

36447.2. The provisions of Chapters 2 (commencing with Section 35950) and 3 (commencing with Section 36150) shall apply to the consolidated bonds to the extent they may be made applicable.

36447.3. It is the intent of the Legislature in enacting this chapter to preserve the status of the improvement districts' bonds which have been consolidated, so that the bonds shall continue to constitute "indebtedness approved by the voters" pursuant to subdivision (b) of Section 1 of Article XIII A of the California Constitution and shall reduce accordingly the remaining authorized bonds of the improvement districts. In order to preserve the status of the included bonds, the provisions of this chapter shall be interpreted and applied in a manner so that the burden on the land within the improvement districts does not result in any increase in the amount of assessments that will be levied to pay each improvement district's proportionate share of the principal and interest payments with respect to each series of the consolidated bonds, over the amount it would have paid had its bonds been sold under other provisions of law. The added financial flexibility included in this chapter has been granted to the district only on the basis that the consolidating of improvement district bond authorizations and the permission to utilize negotiated sale of bonds, variable interest rates, refunding of existing improvement district bonds by exchange, or otherwise, and the other features of this chapter shall be authorized only to the extent that the burden upon the property owners of the improvement

districts is not increased.

36447.4. Before adopting a resolution approving the issuance of any consolidated bonds pursuant to this chapter and Chapter 3 (commencing with Section 36150), the board shall adopt a resolution of intention, which shall approve a proposed resolution of issuance and state the time and place for a hearing by the board on the proposed resolution of issuance. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in Orange County pursuant to Section 6066 of the Government Code, with the first publication to be at least 14 days prior to the time fixed for the hearing. Notice shall also be given by posting a copy of the resolution of intention in three public places within each improvement district whose bonds are proposed to be included in the consolidated bonds, for at least 14 days prior to the time fixed for the hearing. No notice other than that required by this section need be given.

36447.5. At the time and place so fixed or at any time or place to which the hearing is continued, the board shall hold the hearing provided by the resolution of intention at which hearing any person interested, including all persons owning land in the improvement districts whose bonds are proposed to be included in the consolidated bonds or any person otherwise interested in the consolidated bonds, may appear and be heard concerning any matter set forth in the resolution of intention and proposed resolution of issuance or any matters material thereto, including the question of whether the burden on the lands of any of the included improvement districts would be increased.

36447.6. If the board finds that protests against the proposed issuance of any consolidated bonds are signed by the owners of more than one-half of the area of the land in any improvement district whose bonds are proposed to be included in the consolidated bonds, all further proceedings under the resolution of intention are barred, and no new resolution of intention for the issuance of consolidated bonds which would include bonds for the improvement district may be passed within six months after the decision of the board on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the board.

36447.7. At the conclusion of the hearing, in the absence of a majority protest pursuant to Section 36447.6, the board shall adopt a resolution making the finding required by subdivision (b) of Section 36447.1, and, if any of the features provided for by Sections 36447.9 and 36447.10 are to be included in the consolidated bonds, also making a finding that the features so utilized will not increase the cost that any improvement district will pay over the cost that it would have paid had the bonds been sold without those features. All findings required by this section shall be supported by substantial evidence, which shall mean evidence that is reasonable, credible, and of solid value and ponderable legal significance, based upon the record as a whole. The findings shall also be made as to any

modifications made by the board in the terms of the proposed resolution of issuance as a result of the hearing. If the board makes the foregoing findings in accordance with the provisions of this chapter, the board may adopt the proposed resolution of issuance in final form.

36447.8. Consolidated bonds shall be investigated and certified in the manner required by Section 36152. As a part of the certification procedure, the State Treasurer shall separately determine that he or she agrees with the findings made by the board under Section 36447.7.

36447.9. The board may, if it determines that to do so would produce a lower interest cost on the bonds, sell bonds at private sale without advertising for bids.

36447.10. The board may provide that bonds shall bear a variable interest rate, and for the manner and intervals in which the rate shall vary. The variable rate shall at no time exceed the maximum rate permitted by Section 53531 of the Government Code or other applicable provisions of law.

36447.11. Refunding bonds issued under Article 6 (commencing with Section 36060) of Chapter 2 may, to the extent not inconsistent therewith, be issued in the manner set forth in this chapter whether or not the bonds being refunded were issued in the manner set forth in this chapter. The par value of each improvement district's refunding bonds included in the consolidated refunding bonds shall be only sufficient to provide for the refunding of that improvement district's bonds to be refunded.

36447.12. In lieu of refunding outstanding bonds by defeasing or calling for redemption, the board may also refund under Article 6 (commencing with Section 36060) of Chapter 2 by acquiring the bonds to be refunded and exchanging them for the refunding bonds in a negotiated transaction with the holder or through an intermediary agent of the district.

36447.13. Sections 36447.10, 36447.11, and 36447.12 may be utilized by the board whether the bonds or refunding bonds are issued as consolidated bonds or otherwise, provided that all the bonds and refunding bonds issued under the provisions of this chapter shall be investigated and certified in the manner required by Section 36152.

36447.14. All acts and proceedings taken prior to the effective date of this chapter, which would be in accordance with this chapter if taken after the effective date, are hereby confirmed, validated, and declared legally effective.

SEC. 4. The Legislature finds and declares that there are special financial circumstances unique to the Irvine Ranch Water District and the Santa Margarita Water District which make the provisions of Sections 1 and 3 of this act necessary and that a general law cannot be made applicable.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

Reduced issuance expenses and a more favorable interest rate are achievable for bonds of the Irvine Ranch Water District's and the Santa Margarita Water District's improvement districts if authority is given to those districts to market them as consolidated bonds of the district in lieu of selling them separately on behalf of each respective improvement district. To afford those districts the earliest possible opportunity to lower the financial burden of debt service for the ratepayers and taxpayers, it is necessary that this act take effect immediately.

CHAPTER 999

An act to amend Section 381b of the Penal Code, relating to drugs.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 381b of the Penal Code is amended to read:

381b. Any person who possesses nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. This section shall not apply to any person who is under the influence of nitrous oxide or any material containing nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person duly licensed to administer such an agent.

CHAPTER 1000

An act to amend Section 13352.5 of the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 10, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not suspend, pursuant to paragraph (3) of subdivision (a) of Section 13352, but shall restrict the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23152, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 and the court has restricted the privilege to operate a motor vehicle as provided in that subdivision.

(b) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not revoke, pursuant to paragraph (4) of subdivision (a) of Section 13352, but shall suspend for one year and, thereafter, restrict for two additional years, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23153, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23186, and the court has ordered the department to suspend the privilege to operate a motor vehicle as provided in that subdivision.

(c) The restriction of the driving privilege under subdivision (a) shall become effective 30 days from the date on which the person consented to participate in the program specified in subdivision (a), excluding any time of imprisonment ordered by the court, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23166 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license or if the person fails to show evidence of participation within 30 days, excluding the time of imprisonment ordered by the court, the department shall suspend the driving privilege of the person for the time prescribed in paragraph (3) of subdivision (a) of Section 13352.

(d) The restriction of the driving privilege under subdivision (b)

shall become effective 30 days from the end of the period of suspension, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23186 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license or if the person fails to show evidence of participation within 30 days from the end of the period of suspension, excluding any time of imprisonment ordered by the court to be served after the end of the period of suspension, the department shall revoke the driving privilege of the person for the time prescribed in paragraph (4) of subdivision (a) of Section 13352.

(e) The driving privilege restricted under subdivision (a) or (b) shall be limited to the hours for driving to and from the place of employment and during the course of employment and driving to and from activities required in an alcohol treatment program specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186. The department may set forth the times and days of restricted operation established by the court either on a special restricted license or upon the usual license form. The restriction shall continue in full force and effect until the person presents evidence satisfactory to the department that the person has completed the alcohol treatment program and has given proof of ability to respond in damages as defined in Section 16430. Except as provided in Section 23168, in no event shall the length of the restriction under subdivision (b) of Section 23166 or the total time of suspension and restriction under subdivision (b) of Section 23186 be for a period less than the applicable time period of suspension or revocation under paragraph (3) or (4) of subdivision (a) of Section 13352.

(f) Except as provided in this subdivision, the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352, 60 days from the date that the department notifies the person and the court of the intended action pursuant to subdivision (a) of Section 11837.1 of the Health and Safety Code, or the date ending the additional time ordered by the court under this subdivision, whichever is later. If the person presents evidence satisfactory to the department that the court of jurisdiction has consented to the person's reinstatement in the program, the department shall continue in effect the restriction granted under subdivision (c), unless the person has previously been reinstated in the program on two or more occasions, in which case the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352. The evidence shall be presented within 45 days of the notice from the department of the intended action or such additional time, not to exceed an additional 45 days, for the determination as is required, ordered, and transmitted to the department by the court,

which additional time is not caused by any action or failure to act by the person.

(g) All abstracts of record showing a conviction that are forwarded to the department pursuant to Section 1803 shall state whether the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186 and state the date on which the person consented to participate in the program.

(h) The department, in cooperation with the State Department of Alcohol and Drug Programs, shall adopt such regulations as it deems necessary to implement this section.

SEC. 2. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not suspend, pursuant to paragraph (3) of subdivision (a) of Section 13352, but shall restrict the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23152, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 and the court has restricted the privilege to operate a motor vehicle as provided in that subdivision.

(b) Unless ordered to do so by the court upon a finding that the terms and conditions of probation were violated, the department shall not revoke, pursuant to paragraph (4) of subdivision (a) of Section 13352, but shall suspend for one year and, thereafter, restrict for two additional years, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person violated Section 23153, but only if the court has certified to the department that the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23186, and the court has ordered the department to suspend the privilege to operate a motor vehicle as provided in that subdivision.

(c) The restriction of the driving privilege under subdivision (a) shall become effective 30 days from the date on which the person consented to participate in the program specified in subdivision (a), excluding any time of imprisonment ordered by the court, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23166 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license or if the person fails to show evidence of participation within 30 days, excluding the time of imprisonment ordered by the court, the department shall suspend the driving privilege of the person for the time prescribed in paragraph (3) of subdivision (a) of Section 13352.

(d) The restriction of the driving privilege under subdivision (b)

shall become effective 30 days from the end of the period of suspension, but only if the person presents evidence satisfactory to the department that he or she is participating in the program specified in subdivision (b) of Section 23186 and pays fees to the department of fifteen dollars ($15) upon application for the restricted license and twenty dollars ($20) upon completion of the treatment program or upon application for an unrestricted license, whichever is sooner. If the person fails to apply for a restricted license or if the person fails to show evidence of participation within 30 days from the end of the period of suspension, excluding any time of imprisonment ordered by the court to be served after the end of the period of suspension, the department shall revoke the driving privilege of the person for the time prescribed in paragraph (4) of subdivision (a) of Section 13352.

(e) The driving privilege restricted under subdivision (a) or (b) shall be limited to the hours for driving to and from the place of employment and during the course of employment and driving to and from activities required in an alcohol treatment program specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186. The department may set forth the times and days of restricted operation established by the court either on a special restricted license or upon the usual license form. The restriction shall continue in full force and effect until the person presents evidence satisfactory to the department that the person has completed the alcohol treatment program and has given proof of ability to respond in damages as defined in Section 16430. Except as provided in Section 23168, in no event shall the length of the restriction under subdivision (b) of Section 23166 or the total time of suspension and restriction under subdivision (b) of Section 23186 be for a period less than the applicable time period of suspension or revocation under paragraph (3) or (4) of subdivision (a) of Section 13352.

(f) Except as provided in this subdivision, the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352, 60 days from the date that the department notifies the person and the court of the intended action pursuant to subdivision (a) of Section 11837.1 of the Health and Safety Code, or the date ending the additional time ordered by the court under this subdivision, whichever is later. If the person presents evidence satisfactory to the department that the court of jurisdiction has consented to the person's reinstatement in the program, the department shall continue in effect the restriction granted under subdivision (c), unless the person has previously been reinstated in the program on two or more occasions, in which case the department shall suspend or revoke the driving privilege for the time prescribed in paragraph (3) or (4) of subdivision (a) of Section 13352. The evidence shall be presented within 45 days of the notice from the department of the intended action or such additional time, not to exceed an additional 45 days, for the determination as is required, ordered, and transmitted to the department by the court,

which additional time is not caused by any action or failure to act by the person.

(g) All abstracts of record showing a conviction that are forwarded to the department pursuant to Section 1803 shall state whether the court has granted probation to the person on conditions which include the conditions specified in subdivision (b) of Section 23166 or subdivision (b) of Section 23186 and state the date on which the person consented to participate in the program.

(h) The department, in cooperation with the State Department of Alcohol and Drug Programs, shall adopt such regulations as it deems necessary to implement this section.

(i) This section does not apply to persons whose offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

SEC. 3. Section 2 of this bill incorporates amendments to Section 13352.5 of the Vehicle Code proposed by both this bill and SB 895. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 13352.5 of the Vehicle Code, and (3) this bill is enacted after SB 895, in which case Section 13352.5 of the Vehicle Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 895, at which time Section 2 of this bill shall become operative.

CHAPTER 1001

An act to amend Section 66477 of the Government Code, relating to subdivisions.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved

tentative map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide 3 acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard not to exceed 5 acres per 1,000 persons residing within a subdivision subject to this section.

(1) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the most recent available federal census. The amount of neighborhood and community park acreage shall be the actual acreage of existing neighborhood and community parks of the city, county, or local public agency as shown on its records, plans, recreational element, maps, or reports as of the date of the most recent available federal census.

(2) For cities incorporated after the date of the most recent available federal census, the park area per 1,000 members of the population of the city shall be derived from the ratio that the amount of neighborhood and community park acreage shown on the records, maps, or reports of the county in which the newly incorporated city is located bears to the total population of the new city as determined pursuant to Section 11005 of the Revenue and Taxation Code. In making any subsequent calculations pursuant to this section, the county in which the newly incorporated city is located shall not include the figures pertaining to the new city which were calculated pursuant to this paragraph. Fees shall be payable at the time of the recording of the final map or at a later time as may be prescribed by local ordinance.

(c) The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan containing a recreational element, and the park and recreational facilities are in accordance with definite principles and standards contained therein.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city, county, or other local public agency to which the land

or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision. Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(g) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(h) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section; provided however, that a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

(i) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the manner provided herein.

In the event park and recreational services and facilities are provided by a public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall, subject to subdivision (b), be jointly determined by the city or county having jurisdiction and such public agency.

The provisions of this section do not apply to commercial or industrial subdivisions; nor do they apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

Planned developments and real estate developments, as defined in Sections 11003 and 11003.1, respectively, of the Business and Professions Code, shall be eligible to receive a credit, as determined by the legislative body, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of private open space within the development which is usable for active recreational uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

SEC. 2. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide 3 acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard not to exceed 5 acres per 1,000 persons residing within a subdivision subject to this section.

(1) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the most recent available federal census. The amount of neighborhood and community park acreage shall be the actual acreage of existing neighborhood and community parks of the city, county, or local public agency as shown on its records, plans, recreational element, maps, or reports as of the date of the most recent available federal census.

(2) For cities incorporated after the date of the most recent available federal census, the park area per 1,000 members of the population of the city shall be derived from the ratio that the amount of neighborhood and community park acreage shown on the records, maps, or reports of the county in which the newly incorporated city is located bears to the total population of the new city as determined pursuant to Section 11005 of the Revenue and Taxation Code. In

making any subsequent calculations pursuant to this section, the county in which the newly incorporated city is located shall not include the figures pertaining to the new city which were calculated pursuant to this paragraph. Fees shall be payable at the time of the recording of the final map or parcel map or at a later time as may be prescribed by local ordinance.

(c) The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan or specific plan containing policies and standards for parks and recreation facilities, and the park and recreational facilities are in accordance with definite principles and standards.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city, county, or other local public agency to which the land or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision. Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(g) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(h) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section. However a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

(i) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the

manner provided in this section.

If park and recreational services and facilities are provided by a public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall, subject to subdivision (b), be jointly determined by the city or county having jurisdiction and such public agency.

This section does not apply to commercial or industrial subdivisions or to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

Planned developments and real estate developments, as defined in Sections 11003 and 11003.1, respectively, of the Business and Professions Code, shall be eligible to receive a credit, as determined by the legislative body, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of private open space within the development which is usable for active recreational uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

SEC. 3. Section 2 of this bill incorporates amendments to Section 66477 of the Government Code proposed by both this bill and AB 2038. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 66477 of the Government Code, and (3) this bill is enacted after AB 2038, in which case Section 1 of this bill shall not become operative.

CHAPTER 1002

An act to amend and repeal Section 25955 of the Health and Safety Code, relating to abortion.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 25955 of the Health and Safety Code is amended to read:

25955. (a) No employer or other person shall require a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility, or clinic to directly participate in the induction or performance of an abortion, if such employee or other person has filed a written statement with the employer or the hospital, facility, or clinic indicating a moral, ethical, or religious basis for refusal to participate

in the abortion.

No such employee or person with staff privileges in a hospital, facility, or clinic shall be subject to any penalty or discipline by reason of his refusal to participate in an abortion. No such employee of a hospital, facility, or clinic which does not permit the performance of abortions, or person with staff privileges therein, shall be subject to any penalty or discipline on account of such person's participation in the performance of an abortion in other than such hospital, facility, or clinic.

No employer shall refuse to employ any person because of such person's refusal for moral, ethical, or religious reasons to participate in an abortion, unless such person would be assigned in the normal course of business of any hospital, facility, or clinic to work in those parts of the hospital, facility, or clinic where abortion patients are cared for. No provision of this chapter prohibits any hospital, facility, or clinic which permits the performance of abortions from inquiring whether an employee or prospective employee would advance a moral, ethical, or religious basis for refusal to participate in an abortion before hiring or assigning such a person to that part of a hospital, facility, or clinic where abortion patients are cared for.

The refusal of a physician, nurse, or any other person to participate or aid in the induction or performance of an abortion pursuant to this subdivision shall not form the basis of any claim for damages. Every hospital, clinic, or health facility clinic performing abortions shall post a copy of this section on employee bulletin boards of the hospital, clinic, or health facility.

(b) No medical school or other facility for the education or training of physicians, nurses, or other medical personnel shall refuse admission to a person or penalize such person in any way because of such person's unwillingness to participate in the performance of an abortion for moral, ethical, or religious reasons. No hospital, facility, or clinic shall refuse staff privileges to a physician because of such physician's refusal to participate in the performance of abortion for moral, ethical, or religious reasons.

(c) Nothing in this chapter shall require a nonprofit hospital or other facility or clinic which is organized or operated by a religious corporation or other religious organization and licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) of Division 2, or any administrative officer, employee, agent, or member of the governing board thereof, to perform or to permit the performance of an abortion in such facility or clinic or to provide abortion services. No such nonprofit facility or clinic organized or operated by a religious corporation or other religious organization, or its administrative officers, employees, agents, or members of its governing board shall be liable, individually or collectively, for failure or refusal to participate in any such act. The failure or refusal of any such corporation, unincorporated association or individual person to perform or to permit the performance of such medical procedures shall not be the

basis for any disciplinary or other recriminatory action against such corporations, unincorporated associations, or individuals. Any such facility or clinic which does not permit the performance of abortions on its premises shall post notice of such proscription in an area of such facility or clinic which is open to patients and prospective admittees.

(d) This section shall not apply to medical emergency situations and spontaneous abortions.

Any violation of this section is a misdemeanor.

(e) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 25955 of the Health and Safety Code, as amended by Section 2 of Chapter 935 of the Statutes of 1973, shall have the same force and effect as if this temporary provision had not been enacted.

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

CHAPTER 1003

An act to amend Sections 5351 and 5440 of, and to add Section 5408.2 to, the Business and Professions Code, relating to outdoor advertising, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 5351 of the Business and Professions Code is amended to read:

5351. Every person desiring a permit to place any advertising display shall file an application with the director or with his authorized agent.

SEC. 2. Section 5408.2 is added to the Business and Professions Code, to read:

5408.2. Notwithstanding any other provision of this chapter, an advertising display is a lawfully erected advertising display and, upon application and payment of the application fee, the director shall issue a permit for the display if it meets all of the following

conditions:

(a) The display was erected on property adjacent to State Highway Route 10 (Interstate 10) in the unincorporated area of the County of Los Angeles in order to replace a display which was required to be removed because the property on which it was located was acquired by the State of California to facilitate construction of the busway on Route 10 in the County of Los Angeles.

(b) Upon proper application, the display could have qualified for a permit at the time it was erected, except for Sections 5351 and 5408 and Article 5 (commencing with Section 5320) as in effect at the time.

(c) The display conforms to Section 5408 as in effect on January 1, 1984.

(d) The display was in existence on January 1, 1984.

SEC. 3. Section 5440 of the Business and Professions Code is amended to read:

5440. Except as provided in Sections 5441 and 5442, no advertising display shall be placed or maintained on property adjacent to a section of a freeway which has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Chapter 653 of the Statutes of 1983, which became effective on January 1, 1984, provided standards for the erection of outdoor advertising displays and clarified the status of a number of displays throughout the state. However, the status of a few advertising displays is still clouded by events which occurred between the date of erection of these displays and January 1, 1984, the effective date of the clarifying provisions in Chapter 653. In order to resolve this situation by allowing the clarifying provisions of Chapter 653 to be retroactively applied, it is necessary that this act take effect immediately.

CHAPTER 1004

An act to amend Section 12389 of, and to add Sections 12413 and 12413.5 to, the Insurance Code, relating to insurance.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business.

Number of documents	Amount of required minimum net worth
Less than 50,000	$ 75,000
50,000 to 100,000	120,000
100,000 to 500,000	200,000
500,000 to 1,000,000	300,000
1,000,000 or more	400,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of such plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which such plant is currently maintained, less 1/10th thereof for each succeeding year or part thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used title plant system during the period

of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one hundred seventy-five dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision

(d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant whose certification or license is in good standing at the time of the preparation. The fee for filing the audit shall be two hundred sixty-five dollars ($265).

The commissioner may refuse to accept an audit or order a new audit for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license.

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective.

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant.

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) It shall maintain record of all receipts and disbursements of escrow funds.

(2) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate

holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an application for a change of name shall be one hundred dollars ($100). Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 12413 is added to the Insurance Code, to read:

12413. (a) No title insurance company, controlled escrow company, or underwritten title company shall disburse funds from an escrow account until items or drafts in an amount sufficient to

fund any disbursements from the account have been received and deposited to the account or submitted for collection.

(b) Except as provided in Section 12404, where a draft, other than a share draft, has been received and submitted for collection, no title insurance company, controlled escrow company, or underwritten title company shall disburse funds from an escrow account with respect to the draft until the proceeds of the draft have become available for withdrawal as a matter of right from the financial institution to which the draft has been submitted for collection.

(c) Except as provided in Section 12404, where an item which is drawn on or issued by an office of a financial institution which is located in a state other than this state, has been received and deposited to the escrow account, no title insurance company, controlled escrow company, or underwritten title company shall disburse funds from the escrow account with respect to the item until the proceeds of the item have become available for withdrawal as a matter of right from the financial institution to which the deposit was made.

(d) For purposes of subdivisions (b) and (c), "available for withdrawal as a matter of right" means the following:

(1) For any item or draft, other than a share draft, when the item or draft has been submitted for collection and payment received.

(2) For any deposited item, the earlier of:

(A) When final settlement has occurred; or

(B) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on a state or federal saving and loan association or state or federal savings bank located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(C) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on a state or national bank located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state,

notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(D) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on any state or federal credit union located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state , notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(e) As used herein, the deposit to an escrow account of an item, or the submission for collection of an item, shall be deemed to have occurred on the date denominated the day of deposit as set forth in the regulations adopted pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code, applicable to the financial institution to which the item is deposited or submitted for collection by the title insurer, controlled escrow company, or underwritten title company.

(f) For purposes of this section, the term "escrow account" means any depository account with a financial institution to which items or drafts are deposited with respect to any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agency or employee of the latter.

(g) For purposes of this section, the term "item" means any check (including a cashier's check), negotiable order of withdrawal, share draft, traveler's check, or money order.

(h) For purposes of this section, the term "financial institution" means any financial institution: (1) whose accounts are insured by either the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration, or (2) which is subject to the jurisdiction of either the Comptroller of the Currency, the Federal Home Loan Bank Board, or the National Credit Union Administration, or (3) is located in a state other than this state, and does not meet the requirements of paragraph (1) or (2), but is subject to the jurisdiction of the state with which it is located by an agency

having authority comparable to that of either the State Department of State Banking, Department of Savings and Loan, or Department of Corporations.

(i) No title insurance company, controlled escrow company, or underwritten title company shall be liable for a violation of this section if the violation was not intentional or resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid that error. Examples of bona fide errors include, but are not limited to clerical, calculation, computer malfunction and programming, and printing errors.

(j) Nothing in this section shall be deemed to prohibit the recordation of documents prior to the time funds would be available for disbursement with respect to a transaction provided the parties to the transaction consent in writing prior thereto.

SEC. 3. Section 12413.5 is added to the Insurance Code, to read:

12413.5. All funds received in connection with any escrow conducted by a title insurance company, controlled escrow company, or underwritten title company shall be deposited in a separate depository account in a bank or savings and loan association, and the funds so deposited shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the title insurance company, controlled escrow company, or underwritten title company. The funds shall not be subject to any debts of the title insurance company, controlled escrow company, or underwritten title company and shall be used only to fulfill the terms of the individual escrow for which the funds were accepted and none of the funds shall be utilized until the conditions of the escrow have been met.

Any interest received on funds deposited in connection with any escrow which are deposited in a bank or savings and loan association shall be paid over by the escrow to the depositing party to the escrow unless the escrow is otherwise instructed by the depositing party, and shall not be transferred to the account of the title insurance company, controlled escrow company, or underwritten title company.

CHAPTER 1005

An act to add Chapter 20, (commencing with Section 22450) to Division 8 of the Business and Professions Code, and to amend Section 11370.3 of the Government Code, relating to registered vocations.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Chapter 20 (commencing with Section 22450) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 20. PROFESSIONAL PHOTOCOPIERS

22450. A professional photocopier is any person who for compensation obtains or reproduces documents authorized to be produced under Part 2.6 (commencing with Section 56) of Division 1 of, or Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of, the Civil Code, or Section 1158 of, or Article 4 (commencing with Section 1560) of Chapter 2 of Division 11 of, the Evidence Code and who, while engaged in performing that activity, has access to the information contained therein. A professional photocopier shall be registered pursuant to this chapter by the county clerk of the county in which he or she resides or has his or her principal place of business, and in which he or she maintains a branch office.

22451. This chapter does not apply to any of the following:

(a) Any government employee who is acting in the course of his or her employment.

(b) A member of the State Bar or his or her employees, agents, or independent contractors.

(c) Any person who is specially appointed by the court to obtain or reproduce in order to transmit or distribute those records.

(d) An employee or agent of a person who is registered under this chapter.

(e) Any custodian of records who makes his or her own copies.

(f) Any certified shorthand reporter, official court reporter, or stenotype operator who makes his or her own copies.

(g) Any person licensed under Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code or his or her employees.

(h) The Office of the Secretary of State.

22452. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) He or she has not been convicted of a felony.

(3) He or she will perform his or her duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the

general partners or officers.

(2) The general partners or officers have not been convicted of a felony.

(3) The partnership or corporation will perform its duties as a professional photocopier in compliance with the provisions of law governing the transmittal of confidential documentary information in this state.

22453. An applicant shall pay a fee of one hundred seventy-five dollars ($175) to the county clerk at the time he or she files an application for registration. An additional fee of ten dollars ($10) shall be paid to the county clerk for each additional card of identification.

22453.1. Notwithstanding Section 22453, any person registered pursuant to Chapter 16 (commencing with Section 22350) shall pay a fee of one hundred dollars ($100) instead of the fee of one hundred seventy-five dollars ($175) otherwise required by Section 22452.1.

22454. At least one person involved in the management of a professional photocopier shall be required to hold a current commission from the Secretary of State as a notary public in this state.

22455. (a) A certificate of registration shall be accompanied by a bond of five thousand dollars ($5,000) which is executed by a corporate surety qualified to do business in this state and conditioned upon compliance with the provisions of this chapter and all laws governing the transmittal of confidential documentary information under the code sections specified in Section 22450. The total aggregate liability on the bond shall be limited to five thousand dollars ($5,000). The bond may be terminated pursuant to the provisions of Section 995.440 and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure.

(b) In lieu of the bond required by subdivision (a), a registrant may deposit five thousand dollars ($5,000) in cash with the county clerk.

(c) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to the provisions of subdivision (d) and the right of a person to recover against the bond or cash deposit under Section 22459.

(d) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

22456. A certificate of registration shall be effective for a period of two years. Thereafter, a registrant shall file a new certificate of registration and pay the fee required by Section 22453.

22457. (a) The county clerk shall maintain a register of professional photocopiers, assign a number to each professional photocopier, and issue an identification card to each one. Additional cards for employees of professional photocopiers shall be issued upon the payment of ten dollars ($10) for each card. Upon renewal of registration, the same number shall be assigned, provided there is no lapse in the period of registration.

(b) The identification card shall be a card 3⅜ inches by 2¼ inches, and shall contain at the top the title, "Professional Photocopier" followed by the registrant's name, address, registration number, date of expiration, and county of registration. It shall also contain a photograph of the registrant in the lower left corner.

22458. A professional photocopier shall be responsible at all times for maintaining the integrity and confidentiality of information obtained under the applicable codes in the transmittal or distribution of records to the authorized persons or entities.

22459. (a) Any person who recovers damages in any action or proceeding for injuries caused by the revelation of information which was improperly obtained, transmitted, or distributed by a registrant, or caused by a registrant's noncompliance with requirements of confidential documentary information under the code sections specified in Section 22450 may recover damages from the bond or cash deposit required by Section 22455.

(b) Whenever there has been a recovery against a bond or cash deposit under subdivision (a), the registrant shall file a new bond or deposit an additional amount of cash within 30 days to reinstate the bond or cash deposit to the amount required by Section 22455. If the registrant does not file a bond or deposit this amount within 30 days, his or her certificate of registration shall be revoked.

22460. The county clerk shall revoke the registration of a professional photocopier upon receipt of a court document or record stating that the registrant has been found guilty of a misdemeanor violation of this chapter, or that a civil judgment has been entered against the registrant in an action arising out of an improper disclosure or transmittal of confidential information. The county clerk shall be given notice of such court actions. A registrant whose registration is revoked pursuant to this subdivision may reapply for registration after one year.

22460.5. A certificate of registration may be revoked or suspended whenever it has been determined that the registrant has transmitted or distributed records obtained under the applicable sections in a manner which does not comply with the provisions of law governing the transmittal of confidential documentary information under the code sections specified in Section 22450, or which constitutes an improper transmittal or distribution not amounting to a violation of law.

(b) An investigation concerning the revocation of certificate of registration of a registrant may be commenced at any time the public prosecutor deems it appropriate or upon the complaint of any person

who has been injured by a transmittal or distribution which was handled by the registrant and does not comply with the provisions of law governing the transmittal of confidential documentary information under the code sections specified in Section 22450, or which constitutes an improper transmittal or distribution not amounting to a violation of law.

(c) If the public prosecutor determines from the investigation that cause may exist for the suspension or revocation of the certificate of registration, he or she shall set the matter for hearing and give notice to the registrant. That hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code, and, for the purposes of those provisions, the public prosecutor shall be deemed to be the agency, but shall be charged as provided by Section 11527 of the Government Code.

22461. A registrant whose certificate of registration is suspended or revoked shall be entitled to challenge the decision in a court of competent jurisdiction.

22462. (a) All records transmitted or distributed by a professional photocopier shall be accompanied by a certificate containing all of the following:

(1) An affidavit signed by the custodian of the original records that were reproduced for transmittal. It shall conform to the requirements specified in Article 4 (commencing with Section 1560) of Chapter 2 of Division 11 of the Evidence Code.

(2) An affidavit signed by the professional photocopier or his or her employee stating that the records were transmitted or distributed to the authorized persons or entities.

(b) The certificate shall bear the name, address, and registration number and county of registration of the professional photocopier. The custodian of records shall be entitled to a copy of the certificate, completed as provided in subdivision (a).

(c) The custodian of records shall not be liable for the improper release of the records when the records:

(1) Were released to a professional photocopier for the production of records under authorization or subpoena or other means.

(2) Were certified pursuant to this section.

22463. A failure to comply with the requirements of this chapter shall be punishable as a misdemeanor.

SEC. 2. Section 11370.3 of the Government Code is amended to read:

11370.3. The director shall appoint and maintain a staff of full-time, and may appoint pro tempore part-time, hearing officers qualified under Section 11502 which is sufficient to fill the needs of the various state agencies. The director shall also appoint shorthand reporters and such other technical and clerical personnel as may be required to perform the duties of the office. The director shall assign a hearing officer for any proceeding arising under Chapter 5 of the

Administrative Procedure Act and, upon request from any agency, may assign a hearing officer to conduct other administrative proceedings not arising under that chapter and shall assign hearing reporters as required. The director shall assign a hearing officer for any proceeding arising pursuant to Chapter 20 (commencing with Section 22450) of Division 8 of the Business and Professions Code upon the request of a public prosecutor. Any hearing officer or other employee so assigned shall be deemed an employee of the office and not of the agency to which he or she is assigned. When not engaged in hearing cases, hearing officers may be assigned by the director to perform other duties vested in or required of the office, including those provided for in Section 11370.5.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1006

An act to add Section 1342.5 to the Health and Safety Code, and to add Section 11492 to the Insurance Code, relating to health plans.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 1342.5 is added to the Health and Safety Code, to read:

1342.5. The commissioner shall consult with the Insurance Commissioner prior to adopting any regulations applicable to health care service plans subject to this chapter and nonprofit hospital service plans subject to Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code and other entities governed by the Insurance Code for the specific purpose of ensuring, to the extent practical, that there is consistency of regulations applicable to these plans and entities by the Insurance Commissioner

and the Commissioner of Corporations.

SEC. 2. Section 11492 is added to the Insurance Code, to read:

11492. The commissioner shall consult with the Commissioner of Corporations prior to adopting any regulations applicable to nonprofit hospital service plans subject to regulation under this chapter and any other entity under this code and health care service plans subject to regulation under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code for the specific purpose of ensuring, to the extent practical, that there is consistency of regulations applicable to these entities and plans by the Insurance Commissioner and the Commissioner of Corporations.

SEC. 3. In order to lessen or avoid ambiguity in the regulation of licensed health care providers, the Legislature, in enacting Sections 1 and 2 of this act, intends that relevant administrative regulations adopted by the Department of Corporations and the Department of Insurance be compatible in their regulatory goals.

CHAPTER 1007

An act to amend Sections 708.730, 708.740, and 708.795 of the Code of Civil Procedure, and to amend Sections 11475, 11475.1, and 11475.2 of the Welfare and Institutions Code, relating to support.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 708.730 of the Code of Civil Procedure is amended to read:

708.730. (a) If money is owing and unpaid to the judgment debtor by a public entity, the judgment creditor may file, in the manner provided in this article, an abstract of the money judgment or a certified copy of the money judgment, together with an affidavit that states that the judgment creditor desires the relief provided by this article and states the exact amount then required to satisfy the judgment. The judgment creditor may state in the affidavit any fact tending to establish the identity of the judgment debtor.

(b) Promptly after filing the abstract or certified copy of the judgment and the affidavit with the public entity, the judgment creditor shall serve notice of the filing on the judgment debtor. Service shall be made personally or by mail.

(c) If the judgment is for support and related costs and money is owing and unpaid to the judgment debtor by a state agency as a result of overpayment of a tax, penalty, or interest, or interest allowable with respect to an overpayment, under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, and the district attorney is enforcing the support

obligation pursuant to Section 11475.1 of the Welfare and Institutions Code, the claim may be submitted as follows: the district attorney may file the affidavit referred to in subdivision (a) without filing an abstract or certified copy of the judgment. In lieu thereof, the affidavit shall also state that an abstract of the judgment could be obtained. Where there is more than one judgment debtor, the district attorney may include all the judgment debtors in a single affidavit. Separate affidavits need not be submitted for each judgment debtor. The affidavit need not on its face separately identify each judgment debtor or the exact amount required to satisfy the judgment, so long as it incorporates by reference forms or other automated data transmittals, as required by the State Department of Social Services, which contain this information. Affidavits so submitted by the district attorney shall meet the standards and procedures prescribed by the Franchise Tax Board.

In serving the notice required by subdivision (b), the Director of the State Department of Social Services or his or her designee may act in lieu of the judgment creditor as to judgments enforced under this division.

SEC. 2. Section 708.740 of the Code of Civil Procedure is amended to read:

708.740. (a) Except as provided in subdivision (e), if money is owing and unpaid to the judgment debtor by a state agency, the judgment creditor shall file the abstract or certified copy of the judgment and the affidavit with the state agency owing the money to the judgment debtor prior to the time the state agency presents the claim of the judgment debtor to the Controller. Where the affidavit is prepared under subdivision (c) of Section 708.730, the affidavit shall be filed with the State Department of Social Services, and no abstract need be filed. Filing of the affidavit with the department shall be sufficient to require the Controller to transfer the funds claimed by the judgment debtor, notwithstanding that the claim of the judgment debtor has been filed with another state agency.

(b) When presenting the claim of the judgment debtor to the Controller, the state agency shall do all of the following:

(1) Note the fact of the filing of the abstract or certified copy of the judgment and the affidavit.

(2) State the amount required to satisfy the judgment as shown by the affidavit.

(3) State any amounts advanced to the judgment debtor by the state, or owed by the judgment debtor to the state, for expenses or for any other purpose.

(c) Except as provided in subdivisions (d) and (e), to discharge the claim of the judgment debtor, the Controller shall (1) deposit with the court, by a warrant or check payable to the court, the amount due the judgment debtor (after deducting an amount sufficient to reimburse the state for any amounts advanced to the judgment debtor or owed by the judgment debtor to the state)

required to satisfy the money judgment as shown by the affidavit in full or to the greatest extent and (2) pay the balance thereof, if any, to the judgment debtor.

(d) Where an affidavit stating the existence of a judgment for support has been submitted to the State Department of Social Services, pursuant to subdivision (c) of Section 708.730, to discharge the claim of a judgment debtor, the Controller shall direct payment to the county agency designated by the district attorney in his or her affidavit.

(e) Where the judgment is for support and the money owed is a refund of overpayment of tax, penalty, interest, or interest allowable with respect to an overpayment under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, and the support obligation is not being enforced pursuant to Section 11475.1 of the Welfare and Institutions Code, the judgment creditor shall file the abstract or certified copy of the judgment with the district attorney of the county in which the support judgment is entered or registered The district attorney shall then file the claim of the judgment creditor pursuant to subdivision (c) of Section 708.730. When funds are received by the district attorney he or she shall discharge any claim of the judgment debtor by forwarding those sums to the clerk of the court pursuant to subdivision (c) of this section. Any and all notices otherwise required of a judgment creditor or the clerk of court, and any litigation to enforce rights under this subdivision shall be the responsibility of the judgment creditor, the same as if service had been directly on the Controller without the intervention of the district attorney.

(f) Where the claim of the judgment debtor is less than ten dollars ($10) and the claim of the judgment creditor arises under an affidavit filed pursuant to subdivision (c) of Section 708.730, the Controller may disregard the claim of the judgment creditor and forward any and all sums due to the judgment debtor. In the event that there is more than one claimant for a refund, the Franchise Tax Board shall have discretion in allocating the overpayment among claimants.

(g) Should two or more district attorneys submit claims on behalf of a judgment creditor, the Controller in his or her discretion may select which claim or claims he or she shall honor.

(h) Any claims which are honored in behalf of a judgment creditor shall be considered as refunds of tax overpayments to the judgment debtor.

SEC. 3. Section 708.795 of the Code of Civil Procedure is amended to read:

708.795. Except as to sums due and unpaid under a judgment for support, nothing in this article authorizes the filing against an overpayment of tax, penalty, or interest, or interest allowable with respect to an overpayment, under Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code or under Division 6 (commencing with Section 13000) of the Unemployment Insurance

Code.

SEC. 4. Section 11475 of the Welfare and Institutions Code is amended to read:

11475. (a) The department is hereby designated the single organizational unit whose duty it shall be to administer the state plan for securing child and spousal support and determining paternity. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements.

(b) The director shall formulate, adopt, amend or repeal, in accordance with provisions of Section 10554, regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the department and which are consistent with law and necessary for the administration of the state plan for securing child and enforcing spousal support orders and determining paternity. The department, with the cooperation of the Department of Justice, shall insure that there is an adequate organizational structure and sufficient staff to perform functions delegated to any governmental unit relating to Title IV-D of the federal Social Security Act.

SEC. 5. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

To the extent required by federal law, where the child and spouse are not receiving public assistance and the district attorney is collecting support, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding therefrom sums to become due in the future. This fee shall be enforced in the same manner as any other judgment or order of

a superior court for child support. The effective date of the fee for purposes of applying any time limitations on the enforcement thereof shall be the date when the support collected to which the fee applies, was paid, except that such time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting such collection be discontinued prior to the collection of sums to which the fee would otherwise apply, but such discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with such departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

SEC. 6. Section 11475.2 of the Welfare and Institutions Code is amended to read:

11475.2. If at any time the Director of Social Services considers any public agency, which is required by law, by delegation of the department, or by cooperative agreement, to perform functions relating to the state plan for securing child and spousal support and determining paternity, to be failing in a substantial manner to comply with any provision of the state plan, the director shall put such agency on written notice to that effect.

The state plan concerning spousal support shall apply only to spousal support included in a child support order.

In this chapter the term spousal support shall include support for a former spouse.

If the director determines that there is a failure on the part of such public agency to comply with the provisions of the state plan, or if the State Personnel Board certifies to the director that such public agency is not in conformity with applicable merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that sanctions are necessary to secure compliance, the director may invoke either or both of the following sanctions:

(a) Withhold part or all of state and federal funds, including incentive funds, from such public agency until the public agency shall make a showing to the director of full compliance.

(b) Notify the Attorney General that there has been a failure to comply with the state plan and the Attorney General shall take appropriate action to secure compliance.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the

continued operation of the state plan as required by law.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 2206 of the Revenue and Taxation Code.

CHAPTER 1008

An act to amend Section 14136 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 14136 of the Welfare and Institutions Code is amended to read:

14136. No city or county shall establish equipment and personnel standards for the furnishing of nonemergency medical transportation services for eligible Medi-Cal beneficiaries which are in conflict with equipment and personnel standards for reimbursement established by the department pursuant to this chapter. No standard adopted by cities or counties shall require the use of ambulances to supply nonemergency medical transportation, where such standard would conflict with Section 14136.1. Nothing in this section shall be construed to otherwise limit the authority of a city or county to license or regulate nonemergency medical transportation services so long as such regulation is not in conflict with standards established by the department.

Nothing in this section shall be construed to prevent a city or county from allowing both emergency and nonemergency medical transportation services to operate within its jurisdiction under a sole franchise when such a franchise has been determined necessary to assure the economic viability of such services.

Nothing in this section shall be construed to restrict the authority of local government to issue or deny licenses or permits to operate medical transportation services within its jurisdiction on the basis of need and necessity findings.

CHAPTER 1009

An act to amend Sections 39002 and 81003 of the Education Code, to amend Sections 27720, 51115, 65300, 65301, 65302, 65302.3, 65400, 65403, 65585, 65587, 65854, 65856, 65858, 65867, 65901, 66451.3, 66477, 66479, 66484, and 66484.5 of, to add Sections 65010, 65300.9, 65303, and 65905 to, to add Chapter 2.7 (commencing with Section 65090) to Division 1 of Title 7, and to add Article 6 (commencing with Section 65350) and Article 8 (commencing with Section 65450) to Chapter 3 of Division 1 of Title 7 of, to repeal Sections 65302.2, 65302.4, 65302.5, 65302.6, 65302.7, 65303, 65304, 65305, 65306, 65801, 65854.5, 65905, 66451.4, and 66451.5 of, to repeal Article 6 (commencing with Section 65350), Article 7.5 (commencing with Section 65420), Article 8 (commencing with Section 65450), Article 9 (commencing with Section 65500), and Article 10 (commencing with Section 65550) of Chapter 3 of Division 1 of Title 7 of, and to repeal Chapter 5 (commencing with Section 66100) of Division 1 of Title 7 of, the Government Code, to amend Sections 56032 and 56037 of the Health and Safety Code, and to amend Sections 21080.7, 21080.10, 30108.55, and 30500 of the Public Resources Code, relating to planning.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 39002 of the Education Code is amended to read:

39002. The governing board of a school district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 39141 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective school site is located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geologic hazard damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the site or sites under consideration have been the subject of adequate prior studies. The evaluation shall also include location of the site

with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area which is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code. A copy of the report of each investigation conducted pursuant to this section shall be submitted to the State Department of Education.

SEC. 1.1. Section 81033 of the Education Code is amended to read:

81033. The governing board of a community college district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 81131 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective college site is located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geological hazard damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a college in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the site or sites under consideration have been the subject of adequate prior studies. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area which is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code. A copy of the report of each investigation conducted pursuant to this section shall be submitted to the board of governors.

SEC. 1.2. Section 27720 of the Government Code is amended to read:

27720. The board of supervisors of any county may establish the office of county hearing officer. The duties of the office are to

conduct hearings for the county or any board, commission, or committee of the county.

SEC. 1.3. Section 51115 of the Government Code is amended to read:

51115. Parcels zoned as timberland production shall be zoned so as to restrict their use to growing and harvesting timber and to compatible uses. The growing and harvesting of timber on those parcels shall be regulated solely pursuant to state statutes and regulations.

SEC. 1.6. Section 65010 is added to the Government Code, to read:

65010. (a) Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding subject to this title except to the extent that a city or county otherwise provides by charter, ordinance, resolution, or rule of procedure.

(b) No action, inaction, or recommendation by any public agency or its legislative body or any of its administrative agencies or officials on any matter subject to this title shall be held invalid or set aside by any court on the ground of the improper admission or rejection of evidence or by reason of any error, irregularity, informality, neglect, or omission (hereafter, error) as to any matter of procedure subject to this title, unless the court finds that the error was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that error is prejudicial or that injury was done if the error is shown.

SEC. 2. Chapter 2.7 (commencing with Section 65090) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 2.7. PUBLIC HEARINGS

65090. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be published pursuant to Section 6061 in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding at least 10 days prior to the hearing, or if there is no such newspaper of general circulation, the notice shall be posted at least 10 days prior to the hearing in at least three public places within the jurisdiction of the local agency.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

65091. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be given in all of the following ways:

(1) Notice of the hearing shall be mailed or delivered at least 10

days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.

(2) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the local agency may utilize records of the county assessor or tax collector which contain more recent information than the assessment role. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or paragraph (1) is greater than 1,000, a local agency, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior to the hearing.

(4) If the notice is mailed or delivered pursuant to paragraph (3), the notice shall also either be:

(A) Published pursuant to Section 6061 in at least one newspaper of general circulation within the local agency which is conducting the proceeding at least 10 days prior to the hearing.

(B) Posted at least 10 days prior to the hearing in at least three public places in the local agency, including one public place in the area directly affected by the proceeding.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

65092. When a provision of this title requires notice of a public hearing to be given pursuant to Section 65090 or 65091, the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice with the clerk of the governing body or to any other person designated by the governing body to receive these requests. The local agency may charge a fee which is reasonably related to the costs of providing this service and the local agency may require each request to be annually renewed.

65093. The failure of any person or entity to receive notice given pursuant to this title, or pursuant to the procedures established by a chartered city, shall not constitute grounds for any court to invalidate the actions of a local agency for which the notice was given.

65094. As used in this title, "notice of a public hearing" means a notice that includes the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the

matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

65095. Any public hearing conducted under this title may be continued from time to time.

SEC. 3. Section 65300 of the Government Code is amended to read:

65300. Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning. Chartered cities shall adopt general plans which contain the mandatory elements specified in Section 65302.

SEC. 3.5. Section 65300.9 is added to the Government Code, to read:

65300.9. The Legislature recognizes that the capacity of California cities and counties to respond to state planning laws varies due to the legal differences between cities and counties, both charter and general law, and to differences among them in physical size and characteristics, population size and density, fiscal and administrative capabilities, land use and development issues, and human needs. It is the intent of the Legislature in enacting this chapter to provide an opportunity for each city and county to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process, recognizing that each city and county is required to establish its own appropriate balance in the context of the local situation when allocating resources to meet these purposes.

SEC. 4. Section 65301 of the Government Code is amended to read:

65301. (a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and such other territory outside its boundaries which in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

SEC. 5. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of

development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas. The diagram for the land use element shall designate those parcels of real property for timberland production which have been so zoned pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peak load water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the safety

element and any technical studies used for developing the safety element.

SEC. 5.2. Section 65302.2 of the Government Code is repealed.

SEC. 5.4. Section 65302.3 of the Government Code is amended to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

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

SEC. 5.7. Section 65302.4 of the Government Code is repealed.

SEC. 6. Section 65302.5 of the Government Code is repealed.

SEC. 7. Section 65302.6 of the Government Code is repealed.

SEC. 7.5. Section 65302.7 of the Government Code is repealed.

SEC. 8. Section 65303 of the Government Code is repealed.

SEC. 9. Section 65303 is added to the Government Code, to read:

65303. The general plan may include any other elements or address any other subjects which, in the judgment of the legislative body, relate to the physical development of the county or city.

SEC. 10. Section 65304 of the Government Code is repealed.

SEC. 11. Section 65305 of the Government Code is repealed.

SEC. 12. Section 65306 of the Government Code is repealed.

SEC. 13. Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 13.5. Article 6 (commencing with Section 65350) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 6. Preparation, Adoption, and Amendment of the General Plan

65350. Cities and counties shall prepare, adopt, and amend general plans and elements of those general plans in the manner provided in this article.

65351. During the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the city or county deems appropriate.

65352. Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer

the proposed action to all of the following entities:

(a) Any city or county, within or abutting the area covered by the proposal, and any special district which may be significantly affected by the proposed action, as determined by the planning agency.

(b) The local agency formation commission.

(c) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(d) The State Clearinghouse.

(e) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

The provisions of this section are directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

65353. When the city or county has a planning commission authorized by local ordinance or resolution to review and recommend action on a proposed general plan or proposed amendments to the general plan, the commission shall hold at least one public hearing before approving a recommendation on the adoption or amendment of a general plan. Notice of the hearing shall be given pursuant to Section 65090.

65354. The planning commission shall make a written recommendation on the adoption or amendment of a general plan. A recommendation for approval shall be made by the affirmative vote of not less than a majority of the total membership of the commission. The planning commission shall send its recommendation to the legislative body.

65355. Prior to adopting or amending a general plan, the legislative body shall hold at least one public hearing. Notice of the hearing shall be given pursuant to Section 65090.

65356. The legislative body shall adopt or amend a general plan by resolution, which resolution shall be adopted by the affirmative vote of not less than a majority of the total membership of the legislative body. The legislative body may approve, modify, or disapprove the recommendation of the planning commission, if any. However, any substantial modification proposed by the legislative body not previously considered by the commission during its hearings, shall first be referred to the planning commission for its recommendation. The failure of the commission to report within 45 calendar days after the reference, or within the time set by the legislative body, shall be deemed a recommendation for approval.

65357. A copy of the adopted general plan or amendment to the general plan shall be sent to all public entities specified in Section 65352 and any other public entities that submitted comments on the proposed general plan or amendment to the general plan during its preparation. Failure to send the adopted plan or amendment as provided in this section shall not affect its validity in any manner. Copies of the adopted general plan and any amendments to the general plan shall be made available to the general public. A city or county may charge a fee for a copy of the general plan or amendments to the general plan that is reasonably related to the cost of providing that document.

65358. (a) If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body. Notwithstanding Section 54992, a legislative body that permits persons to request an amendment of the general plan may require that an amount equal to the estimated cost of preparing the amendment be deposited with the planning agency prior to the preparation of the amendment.

(b) Except as otherwise provided in subdivision (c) or (d), no mandatory element of a general plan shall be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the legislative body. Each amendment may include more than one change to the general plan.

(c) The limitation on the frequency of amendments to a general plan contained in subdivision (b) does not apply to amendments of the general plan requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this section.

(d) This section does not apply to the adoption of any element of a general plan or to the amendment of any element of a general plan in order to comply with any of the following:

(1) A court decision made pursuant to Article 14 (commencing with Section 65750).

(2) Subdivision (b) of Section 65302.3.

(3) Subdivision (d) of Section 56032 of the Health and Safety Code.

(4) Subdivision (b) of Section 30500 of the Public Resources Code.

65359. Any specific plan or other plan of the city or county that is applicable to the same areas or matters affected by a general plan amendment shall be reviewed and amended as necessary to make

the specific or other plan consistent with the general plan.

65360. The legislative body of a newly incorporated city or newly formed county shall adopt a general plan within 30 months following incorporation or formation. During that 30-month period of time, the city or county is not subject to the requirement that a general plan be adopted or the requirements of state law that its decisions be consistent with the general plan, if all of the following requirements are met:

(a) The city or county is proceeding in a timely fashion with the preparation of the general plan.

(b) The planning agency finds, in approving projects and taking other actions, including the issuance of building permits, pursuant to this title, each of the following:

(1) There is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal being considered or studied or which will be studied within a reasonable time.

(2) There is little or no probability of substantial detriment to or interference with the future adopted general plan if the proposed use or action is ultimately inconsistent with the plan.

(3) The proposed use or action complies with all other applicable requirements of state law and local ordinances.

65361. (a) Notwithstanding any other provision of law, upon application by a city or county, the Director of Planning and Research shall grant a reasonable extension of time, not to exceed one year from the date of issuance of the extension, for the preparation and adoption of all or part of the general plan, if the legislative body of the city or county, after a public hearing, makes any of the following findings:

(1) Data required for the general plan shall be provided by another agency and it has not yet been provided.

(2) In spite of sufficient budgetary provisions and substantial recruiting efforts, the city or county has not been able to obtain necessary staff or consultant assistance.

(3) A disaster has occurred requiring reassignment of staff for an extended period or requiring a complete reevaluation and revision of the general plan, or both.

(4) Local review procedures require an extended public review process which has resulted in delaying the decision by the legislative body.

(5) The city or county is jointly preparing all or part of the general plan with one or more other jurisdictions pursuant to an existing agreement and timetable for completion.

(6) Other reasons exist that justify the granting of an extension, so that the timely preparation and adoption of a general plan is promoted.

(b) The application for an extension shall contain all of the following:

(1) A resolution of the legislative body of the city or county

adopted after public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law or needs to be revised, including one or more of the findings made by the legislative body pursuant to subdivison (a), and the amount of additional time necessary to complete the preparation and adoption of the general plan.

(2) A detailed budget and schedule for preparation and adoption of the general plan including plans for citizen participation and expected interim action. The budget and schedule shall be of sufficient detail to allow the director to assess the progress of the applicant at regular intervals during the term of the extension. The schedule shall provide for adoption of a complete and adequate general plan within two years of the date of the application for the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the land use proposed in an application for a subdivision, rezoning, use permit, variance, or building permit will be consistent with the general plan proposal being considered or studied.

(c) The director may impose any conditions on extensions of time granted that the director deems necessary to ensure compliance with the purposes and intent of this title. Those conditions shall apply only to those parts of the general plan for which the extension has been granted. In establishing those conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city or county pursuant to paragraph (3) of subdivision (b).

(d) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted, the requirement that it be adopted within a specific period of time, or the requirements of state law that its decisions be consistent with those portions of the general plan for which an extension has been granted. However, development approvals shall be consistent with the conditions imposed by the director pursuant to subdivision (c) and any element or elements that have been adopted and for which an extension of time is not sought.

(e) If a city or county that is granted a time extension pursuant to this section determines that it cannot complete the elements of the general plan for which the extension has been granted within the prescribed time period, the city or county may request one additional extension of time, not to exceed one year, if the city or county is able to demonstrate to the satisfaction of the director that substantial progress has been made toward the completion of the general plan.

(f) An extension of time granted pursuant to this section for the preparation and adoption of all or part of a city or county general plan is exempt from the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

65362. Any city, county, or city and county whose application for an extension of time under Section 65361 has been denied or approved with conditions by the director may appeal that denial or approval with conditions to the Planning Advisory and Assistance Council. The council may review the action of the director and act upon the application and approve, conditionally approve, or deny the application, and the decision of the council shall be final. If the council acts on an appeal and by doing so grants a one-year extension, that extension of time shall run from the date of the action by the council.

SEC. 14. Section 65400 of the Government Code is amended to read:

65400. After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(a) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(b) Provide an annual report to the legislative body on the status of the plan and progress in its implementation.

SEC. 15. Section 65403 of the Government Code is amended to read:

65403. (a) Each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that constructs or maintains public facilities essential to the growth and maintenance of an urban population may prepare a five-year capital improvement program. This section shall not preclude, limit, or govern any other method of capital improvement planning and shall not apply to any district or agency unless it specifically determines to implement this section. As used in this section, "public facilities" means any of the following:

(1) Public buildings, including schools and related facilities.

(2) Facilities for the storage, treatment, and distribution of nonagricultural water.

(3) Facilities for the collection, treatment, reclamation, and disposal of sewage.

(4) Facilities for the collection and disposal of storm waters and for flood control purposes.

(5) Facilities for the generation of electricity and the distribution of gas and electricity.

(6) Transportation and transit facilities, including, but not limited to, streets, roads, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities. However, this section shall not apply to a special district which constructs or maintains parks and recreation facilities if the annual operating budget of the district does

not exceed one hundred thousand dollars ($100,000).

(b) The five-year capital improvement program shall indicate the location, size, time of availability, means of financing, including a schedule for the repayment of bonded indebtedness, and estimates of operation costs for all proposed and related capital improvements. The five-year capital improvement program shall also indicate a schedule for maintenance and rehabilitation and an estimate of useful life of all existing and proposed capital improvements.

(c) The capital improvement program shall be adopted by, and shall be annually reviewed and revised by, resolution of the governing body of the district or local agency. Annual revisions shall include an extension of the program for an additional year to update the five-year program. At least 60 days prior to its adoption or annual revision, as the case may be, the capital improvement program shall be referred to the planning agency of each affected city and county within which the district or agency operates, for review as to its consistency with the applicable general plan, any applicable specific plans, and all elements and parts of the plan. Failure of the planning agency to report its findings within 40 days after receipt of a capital improvement program or revision of the program shall be conclusively deemed to constitute a finding that the capital improvement program is consistent with the general plan.

A district or local agency shall not carry out its capital improvement program or any part of the program if the planning agency finds that the capital improvement program or a part of the capital improvement program is not consistent with the applicable general plan, any specific plans, and all elements and parts of the plan. A district or local agency may overrule the finding and carry out its capital improvement program.

(d) Before adopting its capital improvement program, or annual revisions of the program, the governing body of each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement shall hold at least one public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 65090. In addition, mailed notice shall be given to any city or county which may be significantly affected by the capital improvement program.

SEC. 16. Article 7.5 (commencing with Section 65420) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 17. Article 8 (commencing with Section 65450) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 18. Article 8 (commencing with Section 65450) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 8. Specific Plans

65450. After the legislative body has adopted a general plan, the planning agency may, or if so directed by the legislative body, shall, prepare specific plans for the systematic implementation of the

general plan for all or part of the area covered by the general plan.

65451. (a) A specific plan shall include a text and a diagram or diagrams specifying all of the following in detail:

(1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.

(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

(3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.

(4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

65452. The specific plan may address any other subjects which in the judgment of the planning agency are necessary or desirable for implementation of the general plan.

65453. Specific plans shall be prepared, adopted, and amended in the same manner as general plans, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body.

65454. No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan.

65455. No local public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no zoning ordinance may be adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan.

65456. (a) The legislative body, after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

(b) Notwithstanding Section 54992, a city or county may require a person who requests adoption or amendment of a specific plan to

deposit with the planning agency an amount equal to the estimated cost of preparing the plan or amendment prior to its preparation by the planning agency.

(c) Copies of specific plans shall be made available to local agencies and the general public. A city or county may charge a fee for a copy of a specific plan or amendments to a specific plan in an amount that is reasonably related to the cost of providing that document.

65457. (a) Any residential development project, including any subdivision, or any zoning change that is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code. After a supplemental environmental impact report is certified, the exemption specified in this subdivision applies to projects undertaken pursuant to the specific plan.

(b) An action or proceeding alleging that a public agency has approved a project pursuant to a specific plan without having previously certified a supplemental environmental impact report for the specific plan, where required by subdivision (a), shall be commenced within 30 days of the public agency's decision to carry out or approve the project.

(c) This section does not supersede but provides an alternative procedure to Section 21080.7 of the Public Resources Code.

SEC. 19. Article 9 (commencing with Section 65500) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 20. Article 10 (commencing with Section 65550) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 20.5. Section 65585 of the Government Code is amended to read:

65585. (a) Each local government shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code in the preparation and amendment of its housing element pursuant to this article. Those guidelines shall be advisory to each local government in order to assist it in the preparation of its housing element.

(b) At least 90 days prior to adoption of the housing element, or at least 45 days prior to the adoption of an amendment to this element, the planning agency of a local government shall submit a draft of the element or amendment to the department. The department shall review drafts submitted to it and report its findings to the planning agency within 90 days of receipt of the draft in the

case of adoption of the housing element pursuant to this article, or within 45 days of receipt of the draft in the case of an amendment. The legislative body shall consider the department's findings prior to final adoption of the housing element or amendment unless the department's findings are not available within the above prescribed time limits. If the department's findings are not available within those prescribed time limits, the legislative body may take the department's findings into consideration at the time it considers future amendments to the housing element.

(c) Each local government shall provide the department with a copy of its adopted housing element or amendments. The department may review adopted housing elements or amendments and report its findings.

(d) Except as provided in Section 65586, any and all findings made by the department pursuant to subdivisions (b) and (c) shall be advisory to the local government.

SEC. 21. Section 65587 of the Government Code is amended to read:

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981. No extension of time for such purpose may be granted pursuant to Section 65361, notwithstanding its provisions to the contrary.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

SEC. 21.5. Section 65801 of the Government Code is repealed.

SEC. 22. Section 65854 of the Government Code is amended to read:

65854. The planning commission shall hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance. Notice of the hearing shall be given pursuant to Section 65090 and, if the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice shall also be given pursuant to Section 65091.

SEC. 22.5. Section 65854.5 of the Government Code is repealed.

SEC. 23. Section 65856 of the Government Code is amended to read:

65856. (a) Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing. However, if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action on the amendment unless otherwise provided by ordinance or unless an interested party requests a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

(b) Notice of the hearing shall be given pursuant to Section 65090.

SEC. 24. Section 65858 of the Government Code, as amended by Section 1 of Chapter 1108 of the Statutes of 1982, is amended to read:

65858. (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body, to protect the public safety, health and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any such extension shall also require a four-fifths vote for adoption. Not more than the two such extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains a finding that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in a threat to public health, safety, or welfare.

(d) Ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report

describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When any such interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first such ordinance or any extension of the ordinance as provided in this section.

This section shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 25. Section 65858 of the Government Code, as added by Section 2 of Chapter 1108 of the Statutes of 1982, is amended to read:

65858. Without following the procedures otherwise required preliminary to the adoption of a zoning ordinance, the legislative body, to protect the public safety, health and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal which the legislative body, planning commission, or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect four months from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for eight months and subsequently extend the interim ordinance for one year. Any such extension shall also require a four-fifths vote for adoption. Not more than the two such extensions may be adopted. Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect one year from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for one year. When any such interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first such ordinance or any extension of the ordinance as provided in this section.

This section shall become operative January 1, 1989.

SEC. 26. Section 65867 of the Government Code is amended to read:

65867. A public hearing on an application for a development agreement shall be held by the planning agency and by the legislative body. Notice of intention to consider adoption of a development agreement shall be given as provided in Sections 65090 and 65091 in addition to any other notice required by law for other actions to be considered concurrently with the development

agreement.

SEC. 26.5. Section 65901 of the Government Code is amended to read:

65901. (a) The board of zoning adjustment or zoning administrator shall hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance. The board of zoning adjustment or the zoning administrator may also exercise any other powers granted by local ordinance, and may adopt all rules and procedures necessary or convenient for the conduct of the board's or administrator's business.

(b) In accordance with the requirements for variances specified in Section 65906, the legislative body of the city or county may, by ordinance, authorize the zoning administrator to decide applications for variance from the terms of the zoning ordinance without a public hearing on the application. That ordinance shall specify the kinds of variances which may be granted by the board of zoning adjustment or zoning administrator, and the extent of variation which the board of zoning adjustment or zoning administrator may allow.

SEC. 27. Section 65905 of the Government Code is repealed.

SEC. 28. Section 65905 is added to the Government Code, to read:

65905. (a) Except as otherwise provided by this article, a public hearing shall be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications.

(b) Notice of a hearing held pursuant to subdivision (a) shall be given pursuant to Section 65091.

SEC. 29. Chapter 5 (commencing with Section 66100) of Division 1 of Title 7 of the Government Code is repealed.

SEC. 30. Section 66451.3 of the Government Code is amended to read:

66451.3. (a) Unless otherwise provided by this division, notice of a hearing held pursuant to this division shall be given pursuant to Sections 65090 and 65091.

(b) If the proposed subdivision is a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, the notice shall also be given by the local agency by United States mail to each tenant of the subject property, and shall also include notification of the tenant's right to appear and be heard. The requirements of this subdivision may be satisfied by service of the notice in compliance with the requirements for service of legal process by mail.

(c) Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section.

(d) Any interested person may appear at the hearing and shall be

heard.

SEC. 31. Section 66451.4 of the Government Code is repealed.

SEC. 32. Section 66451.5 of the Government Code is repealed.

SEC. 33. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for neighborhood and community park or recreational purposes as a condition to the approval of a tentative map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average household size. There shall be a rebuttable presumption that the average size of each class of household is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard not to exceed five acres per 1,000 persons residing within a subdivision subject to this section.

(1) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the most recent available federal census. The amount of neighborhood and community park acreage shall be the actual acreage of existing neighborhood and community parks as shown on the records, maps, or reports of the city, county, or local public agency as of the date of the most recent available federal census.

(2) For cities incorporated after the date of the most recent available federal census, the park area per 1,000 members of the population of the city shall be derived from the ratio that the amount of neighborhood and community park acreage shown on the records, maps, or reports of the county in which the newly incorporated city is located bears to the total population of the new city as determined pursuant to Section 11005 of the Revenue and Taxation Code. In making any subsequent calculations pursuant to this section, the

county in which the newly incorporated city is located shall not include the figures pertaining to the new city which were calculated pursuant to this paragraph. Fees shall be payable at the time of the recording of the final map or parcel map or at a later time as may be prescribed by local ordinance.

(c) The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan or specific plan containing policies and standards for parks and recreation facilities, and the park and recreation facilities are in accordance with those policies and standards.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city, county, or other local public agency to which the land or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision. Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(g) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(h) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section. However, a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

(i) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the manner provided in this section.

If park and recreational services and facilities are provided by a

public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall, subject to subdivision (b), be jointly determined by the city or county having jurisdiction and such public agency.

This section does not apply to commercial or industrial subdivisions or to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

Planned developments and real estate developments, as defined in Sections 11003 and 11003.1, respectively, of the Business and Professions Code, shall be eligible to receive a credit, as determined by the legislative body, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of private open space within the development which is usable for active recreational uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

SEC. 33.5. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard not to exceed five acres per 1,000 persons residing within a subdivision subject to this section.

(1) The park area per 1,000 members of the population of the city,

county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the most recent available federal census. The amount of neighborhood and community park acreage shall be the actual acreage of existing neighborhood and community parks of the city, county, or local public agency as shown on its records, plans, recreational element, maps, or reports as of the date of the most recent available federal census.

(2) For cities incorporated after the date of the most recent available federal census, the park area per 1,000 members of the population of the city shall be derived from the ratio that the amount of neighborhood and community park acreage shown on the records, maps, or reports of the county in which the newly incorporated city is located bears to the total population of the new city as determined pursuant to Section 11005 of the Revenue and Taxation Code. In making any subsequent calculations pursuant to this section, the county in which the newly incorporated city is located shall not include the figures pertaining to the new city which were calculated pursuant to this paragraph. Fees shall be payable at the time of the recording of the final map or parcel map or at a later time as may be prescribed by local ordinance.

(c) The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan or specific plan containing policies and standards for parks and recreation facilities, and the park and recreational facilities are in accordance with definite principles and standards.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city, county, or other local public agency to which the land or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision. Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(g) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(h) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this

section. However a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

(i) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the manner provided in this section.

If park and recreational services and facilities are provided by a public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall, subject to subdivision (b), be jointly determined by the city or county having jurisdiction and such public agency.

This section does not apply to commercial or industrial subdivisions or to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

Planned developments and real estate developments, as defined in Sections 11003 and 11003.1, respectively, of the Business and Professions Code, shall be eligible to receive a credit, as determined by the legislative body, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of private open space within the development which is usable for active recreational uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

SEC. 34. Section 66479 of the Government Code is amended to read:

66479. There may be imposed by local ordinance a requirement that areas of real property within the subdivision be reserved for parks, recreational facilities, fire stations, libraries, or other public uses, subject to the following conditions:

(a) The requirement is based upon an adopted specific plan or an adopted general plan containing policies and standards for those uses, and the required reservations are in accordance with those policies and standards.

(b) The ordinance has been in effect for a period of at least 30 days

prior to the filing of the tentative map.

(c) The reserved area is of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient manner.

(d) The amount of land reserved will not make development of the remaining land held by the subdivider economically unfeasible.

The reserved area shall conform to the adopted specific or general plan and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period; in such event, the subdivider shall make those changes as are necessary to permit the reserved area to be developed for the intended purpose consistent with good subdividing practices.

SEC. 35. Section 66484 of the Government Code is amended to read:

66484. (a) A local ordinance may require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares. The ordinance may require payment of fees pursuant to this section if all of the following requirements are satisfied:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation or flood control provisions thereof which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system, if the circulation element, transportation or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65091 and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the

area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing agency shall make provision for payment of the share of improvement costs apportioned to those lands from other sources.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. The fees shall not be expended to reimburse the cost of existing bridge facility construction.

(6) The ordinance provides that if, within the time when protests may be filed under the provisions of the ordinance, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section.

(b) Any protest may be withdrawn by the owner protesting, in writing, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

(c) If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body may commence new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section prohibits a legislative body, within that one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(d) Nothing in this section precludes the processing and recordation of maps in accordance with other provisions of this division if the proceedings are abandoned.

(e) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge is required to be constructed, a fund may be so established covering all of the bridge projects in the benefit area. Money in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the local agency for the cost of constructing the improvement.

(f) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(g) A local agency imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund for any advances from planned bridge facility or major thoroughfares funds established to finance the construction of those improvements.

(h) A local agency imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares. However, the sole security for repayment of that indebtedness shall be moneys in planned bridge facility or major thoroughfares funds.

(i) The term "construction" as used in this section includes design, acquisition of right-of-way, administration of construction contracts, and actual construction.

(j) Nothing in this section precludes a county or city from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

SEC. 36. Section 66484.5 of the Government Code is amended to read:

66484.5. (a) The legislative body of a local agency may adopt an ordinance requiring the payment of a fee as a condition of approval of a subdivision requiring a final or parcel map, or as a condition of issuing a building permit in an area of benefit under a groundwater recharge facility plan adopted as provided in this section, for the purpose of constructing recharge facilities for the replenishment of the underground water supply in that area of benefit. The ordinance may require payment of fees pursuant to this section if, at the time of payment, all of the following requirements are satisfied:

(1) A groundwater recharge facility plan for the area to be benefited has been adopted by the legislative body of the local agency. The legislative body shall not adopt the plan until it has given notice to, and consulted with, the water agency then obligated to

furnish water to the area to be benefited and the water agency has formally and in writing approved the plan.

(2) The ordinance has been in effect for a period of at least 30 days prior to the filing of the tentative map, parcel map if no tentative map is required, or the application for a building permit.

(3) The ordinance provides that before any groundwater recharge facility plan is adopted there will be a public hearing held by the legislative body for the proposed area of benefit.

Notice of the hearing on a proposed area of benefit shall be given pursuant to Section 65091 and shall include preliminary information concerning the groundwater recharge facility plan, including the proposed boundaries of the area of benefit, the availability of surface water, the planned facilities for the area of benefit, estimated costs, and the proposed method of fee apportionment.

Written notice of the public hearing shall be given by personal service or mail to the water agency responsible for furnishing water to the area of benefit involved in the hearing prior to or at the time notice is given by mail or by publication and posting. The proposal contained in the mailed, published, or posted notice shall be jointly prepared and agreed upon by the local agency and the water agency before that notice is given. The water agency may participate in the hearings.

(4) The ordinance provides that the groundwater recharge facility plan shall be established at the public hearing and, if approved, adopted by the legislative body. The plan shall include the boundaries of the area of benefit, the availability of surface water, the planned facilities for the area of benefit and the estimated cost thereof, a fair method of allocating the costs within the area of benefit, and the apportionment of fees within the area. The plan, as adopted by the local agency and approved by the water agency, shall be incorporated in a resolution of the legislative body and a certified copy of the plan shall be recorded with the county recorder. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or a parcel map or as a condition of issuing a building permit for the property or portions of the property. Where the area of benefit includes lands not otherwise subject to the payment of fees pursuant to this section, the legislative body shall make provision for payment of the share of improvement costs apportioned to that land by other means.

(5) The ordinance provides that if, within the time when protests may be filed under the provisions of the ordinance, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of the property to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same

improvement or acquisition under the provisions of this section.

(b) Any protests may be withdrawn in writing by the owner who made the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

(c) If any majority protest is directed against only a portion of the improvement, then all further proceedings under this section as to that portion of the improvement so protested against shall be barred for a period of one year. The legislative body, however, may commence new proceedings which do not include the area, acquisitions, or improvements which were the subject of the successful protest. Nothing in this section prohibits the legislative body, within that one-year period, from commencing and carrying on new proceedings for that portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(d) Nothing in this section precludes the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

(e) Subsequent to the adoption of a plan, the local agency may itself construct, operate, and maintain the groundwater recharge facilities, or it may designate the water agency furnishing the water or designate or create another agency to do all or any one of these things as authorized by law. In the event any agency other than the local agency adopting such ordinances is so designated, the services so rendered shall be pursuant to a written agreement entered into between the local agency and the other agency.

(f) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned recharge facility fund. A fund shall be established for each area of benefit. Money in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited.

The fees shall not be expended to reimburse the cost of recharge facilities in existence prior to the adoption of the groundwater recharge facility plan for that area.

(g) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(h) A local agency imposing fees pursuant to this section may advance money from its general fund to pay the cost of constructing the improvements and may reimburse the general fund for those advances from planned recharge facility funds collected to finance the construction of these improvements.

(i) A local agency imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of recharge facilities. However, the sole security for repayment of that indebtedness shall be money in planned recharge facility funds.

(j) Recharge facilities shall not be constructed unless the water agency approves the design of the facilities to be constructed and has

reached an agreement with the local agency establishing the terms and conditions under which the water will be furnished. If the water agency finds that the facilities have been constructed in accordance with the approved design, the agency shall furnish water for the groundwater recharge facilities.

(k) If the water agency is an irrigation district or other entity obligated by law to apportion water among the landowners within the area of benefit, the water agency shall receive credit upon the obligation for any water delivered for groundwater recharge under the agreement and shall be relieved of any further obligation to deliver the amount of water for which it has received such credit to the landowners or lands within that area.

(*l*) Nothing contained in this section entitles a local agency to collect a fee from a landowner who presently receives and continues to receive and use the landowner's pro rata share of surface water from the agency responsible for that area or from a landowner who has not applied for approval of a final or parcel map or a building permit.

(m) A credit for fees paid as authorized by this section shall be applied against any assessment levied by the local agency to construct the planned recharge facilities.

(n) The term "construction," as used in this section, includes design, acquisition of land or easements, administration of construction contracts, and actual construction.

(o) The term "water agency," as used in this section, means the public or other entity that will furnish water for the operation and use of a recharge facility under a groundwater recharge facility plan adopted by a local agency pursuant to this section.

(p) Nothing in this section precludes a county or city from providing funds for the construction of recharge facilities to defray costs not allocated to the area of benefit.

SEC. 37. Section 56032 of the Health and Safety Code is amended to read:

56032. A plan for a large scale urban development shall contain, as a minimum, all of the following elements:

(a) A legal description of the exterior boundaries of the site proposed as a large scale urban development together with a map encompassing the area and delineating thereon the boundaries.

(b) A comprehensive plan for the financing of public improvements and services, including both the costs of capital outlay and the costs of operation and maintenance pursuant to Section 56036. The plan shall address public improvement financing measures to be taken in the event that the sponsor falls behind the construction schedule set out in the plan, or if the sponsor abandons the project at any point.

(c) A specific timetable for the completion of each phase of the development.

(d) A comprehensive development plan which is consistent with state and local general plan requirements, and which specifies the

uses to which the proposed parcels will be dedicated. At least 20 percent of the gross acreage shall be set aside for open-space or park purposes. If the comprehensive development plan is not consistent with the applicable local general plan, it shall be accompanied by any necessary general plan amendment which may be considered simultaneously with the development application. However, any amendment of the general plan pursuant to this subdivision shall not be counted as a general plan amendment for the purposes of subdivision (a) of Section 65358 of the Government Code.

(e) Information on the number of jobs to be created in the large scale urban development and an assessment of the income levels of the jobs. The plan shall provide for development of a balance of jobs and housing that would maximize the opportunities of large scale urban development residents to work there. If the legislative body finds that the sponsor is not making adequate efforts to achieve this balance between jobs and housing at the end of each three-year period following approval of the plan, the legislative body shall take whatever actions it deems necessary to ensure that balance, including halting the issuance of development approvals.

(f) A detailed plan for the provision of housing for all income ranges based on the identified housing needs created by the large scale urban development. Not less than 25 percent of the housing units shall be affordable to low- and moderate-income households. The plan shall provide that, at the end of each three-year period from the time of approval of the plan, at least 25 percent of the housing units completed or under construction shall be affordable to low- and moderate-income households. The timetable required pursuant to subdivision (c) shall provide for the development of housing in accordance with this subdivision.

(g) An evaluation of the impact, if any, of the plan on agricultural lands located within, or in proximity to, the area to be included within the plan and on crop production of these lands. The evaluation shall include, at a minimum, an assessment of the economic impact of converting agricultural lands to other uses, the necessity of preserving lands in agricultural use, and any adverse impact which the development of a large scale urban development pursuant to this division would have on agricultural operations in proximity to the large scale urban development. The legislative body shall, based on the findings of these evaluations, require measures necessary to mitigate the adverse impact, if any, of the large scale urban development on agricultural lands and crop production within or in proximity to the proposed boundaries of the large scale urban development.

(h) A detailed plan for the development of commercial and industrial sites which may be necessary to provide a balanced economic base for the large scale urban development and to provide economic opportunities for the residents of the large scale urban development.

(i) A comprehensive plan for the development of public facilities,

such as transit and schools, which may be required to meet the needs of the large scale urban development.

(j) An evaluation of impact of the plan on the capacity of existing sewer facilities and water resources in contiguous cities and in other affected areas.

(k) An evaluation of the impact of the plan on existing or planned industrial and commercial developments in contiguous cities.

(*l*) An evaluation of the impact of the plan on air and water quality within the region in which the large scale urban development is to be located and on the public service facilities within that region.

SEC. 38. Section 56037 of the Health and Safety Code is amended to read:

56037. The legislative body may adopt an ordinance to combine and modify the procedures and requirements of any or all of the following within a single approval process to expedite its decisionmaking:

(a) The following provisions of Chapter 3 (commencing with Section 65100), of Division 1 of Title 7 of the Government Code:

(1) Article 6 (commencing with Section 65350), relating to the preparation, adoption, and amendment of a general plan.

(2) Article 7 (commencing with Section 65400), relating to the administration of the general plan.

(3) Article 8 (commencing with Section 65450), relating to specific plans.

(b) Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 of the Government Code, relating to zoning regulations, except for Sections 65852.3, 65852.7, 65860, 65863.6, 65863.7, 65913, and 65913.1.

SEC. 39. Section 21080.7 of the Public Resources Code is amended to read:

21080.7. (a) No environmental impact report or negative declaration is required for any project involving the construction of housing or neighborhood commercial facilities in an urbanized area if the lead agency does all of the following:

(1) Finds, after giving notice pursuant to subdivision (b) or (c) of Section 21092 and following the procedure prescribed by law or regulation which would be necessary to make a determination pursuant to Section 21080.1, all of the following:

(i) That the project is consistent with a specific plan which has been adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Title 7 of the Government Code or, in the coastal zone, a local coastal program certified pursuant to Article 2 (commencing with Section 30510) of Chapter 6 of Division 20.

(ii) That the plan or program was adopted pursuant to the procedure established by Article 8 (commencing with Section 65450) of Chapter 3 of Title 7 of the Government Code not more than five years prior to the finding made pursuant to this section.

(iii) That the plan or program has been the subject of an

environmental impact report.

(iv) That the environmental impact report is sufficiently detailed so that the significant adverse effects of the project on the environment and measures necessary to mitigate or avoid any such effects can be determined, including significant physical effects on existing structures and neighborhoods of historical or aesthetic significance, if any, exist in the area covered by the plan or program, and measures necessary to mitigate those effects.

(2) Makes one or more of the findings as required pursuant to Section 21081.

(3) Files a notice of the decision on the proposed activity with the county clerk. Those notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the office of the county clerk. Each list shall remain posted for a period of 30 days.

(b) As used in this section:

(1) "Neighborhood commercial facilities" means those commercial facilities which are an integral part of a project involving the construction of housing and which will serve the residents of the housing.

(2) "Urbanized area" means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the Federal Register, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202—15203 and as periodically updated.

SEC. 40. Section 21080.10 of the Public Resources Code is amended to read:

21080.10. This division shall not apply to any of the following:

(a) An extension of time, granted pursuant to Section 65361 of the Government Code, for the preparation and adoption of one or more elements of a city or county general plan.

(b) Actions taken by the Department of Housing and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, if the project which is the subject of the application for financial assistance will be reviewed pursuant to this division by another agency.

SEC. 41. Section 30108.55 of the Public Resources Code is amended to read:

30108.55. "Local coastal element" is that portion of a general plan applicable to the coastal zone which may be prepared by local government pursuant to this division, or any additional elements of the local government's general plan prepared pursuant to Section 65303 of the Government Code, as the local government deems appropriate.

SEC. 42. Section 30500 of the Public Resources Code is amended to read:

30500. (a) Each local government lying, in whole or in part,

within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any local government may request, in writing, the commission to prepare a local coastal program, or a portion thereof, for the local government. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

(b) Amendments to a local general plan for the purpose of developing a certified local coastal program shall not constitute an amendment of a general plan for purposes of Section 65358 of the Government Code.

(c) The precise content of each local coastal program shall be determined by the local government, consistent with Section 30501, in full consultation with the commission and with full public participation.

SEC. 43. It is the intent of the Legislature in enacting this act to consolidate and simplify statutes relating to local planning. It is not the intent of the Legislature to mandate new programs or higher levels of service on cities and counties.

The responsibilities imposed by Sections 1, 1.1, 1.2, 1.3, 1.6, 2, 3, 3.5, 4, 5, 5.4, 9, 13.5, 14, 15, 18, 20.5, 21, 22, 23, 24, 25, 26, 26.5, 28, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 of this act are no greater than the responsibilities currently imposed on cities and counties by the statutes which are repealed or amended by Sections 1, 1.1, 1.2, 1.3, 3, 4, 5, 5.2, 5.4, 5.7, 6, 7, 7.5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 20.5, 21, 21.5, 22, 23, 24, 25, 26, 26.5, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 of this act.

The amendments made to Section 65302 of the Government Code by this act do not expand the requirements for any element of the general plan of any city, county, or city and county, and do not require any city, county, or city and county to amend its general plan in order to comply with this act.

The amendment made to Section 65585 of the Government Code by this act does not constitute a change in, but is declaratory of, existing law.

SEC. 44. It is the intent of the Legislature that the term "substantially complies," as used in subdivision (b) of Section 65587, be given the same interpretation as was given that term by the court in Camp v. Board of Supervisors, 123 Cal. App. 3d 334, 348.

SEC. 45. If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 46. Section 33.5 of this bill incorporates amendments to Section 66477 of the Government Code proposed by both this bill and SB 571. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 66477 of the Government Code, and (3) this bill is enacted

after SB 571, in which case Section 33 of this bill shall not become operative.

SEC. 47. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in this act to cover costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

CHAPTER 1010

An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) (1) Any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) or Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land and have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, which would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income which, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars ($20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984–85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984–85 fiscal year.

SEC. 2. The provisions of this act shall be effective for the 1984–85 fiscal year and fiscal years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1984–85 fiscal year, and shall apply to any change in ownership occurring on or after March

1, 1975. No escape assessments shall be levied and no refunds shall be made for any fiscal year prior to the 1984–85 fiscal year for any increases or decreases in value made for the 1984–85 fiscal year or fiscal years thereafter as the result of the enactment of this act.

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

CHAPTER 1011

An act to amend and repeal Section 827 of, and to repeal Section 629.5 of, the Welfare and Institutions Code, relating to juveniles, and making an appropriation therefor.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 629.5 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 1089 of the Statutes of 1982, is repealed.

SEC. 2. Section 629.5 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1089 of the Statutes of 1982, is repealed.

SEC. 3. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for such parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court

records be as limited as possible consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 through 12 has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt

of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to insure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 827 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1103 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his parents or guardian, the attorneys for such parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a

probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases, dissemination of juvenile court records be as limited as possible consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 through 12 has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole

or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to insure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, Section 827 of the Welfare and Institutions Code, as amended by Section 2 of Assembly Bill 2708 of the 1983–84 Regular Session of the Legislature, shall become operative.

SEC. 5. The sum of five thousand dollars ($5,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in accordance with Section 2231 of the Revenue and Taxation Code to school districts to reimburse them for costs

mandated by the state and incurred by them pursuant to this act.

SEC. 6. Section 4 of this bill incorporates amendments to Section 827 of the Welfare and Institutions Code proposed by both this bill and AB 2708. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 827 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2708. In that case, Section 827 of the Welfare and Institutions Code, as amended by Section 4 of this act, shall become operative on January 1, 1985, and shall remain in effect only until January 1, 1991, and as of that date is repealed unless a later enacted statute that is enacted before that date deletes or extends that date, and, if that date is not deleted or extended, then on and after January 1, 1991, Section 827 of the Welfare and Institutions Code, as amended by Section 2 of AB 2708, shall become operative.

SEC. 7. No appropriation is made to and no reimbursement is required for local agencies by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs to local agencies in this act which, in the aggregate do not result in additional net costs, and because the only other costs which may be incurred by a local agency will be incurred because this bill creates a new crime.

CHAPTER 1012

An act to amend Section 43.7 of the Civil Code, relating to liability.

[Approved by Governor September 11, 1984 Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, or chiropractor who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, or chiropractors for the writing of professional

liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon, podiatrist, or chiropractor acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 2. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors,

optometrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon, podiatrist, chiropractor, or attorney who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons, podiatrists, chiropractors, or attorneys for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons or attorneys for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code,if the evaluating physician and surgeon, podiatrist, chiropractor, or attorney acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after a reasonable effort to obtain the facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of

action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 43.7 of the Civil Code, as amended by Section 1.8 of Chapter 1081 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 2 of this bill incorporates amendments to Section 43.7 of the Civil Code proposed by both this bill and AB 4009. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 43.7 of the Civil Code, and (3) this bill is enacted after AB 4009, in which case Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding any other provision of this act, if Section 2 of this act becomes operative and is repealed January 1, 1990, then Section 1 of this act shall become operative on January 1, 1990, in which case Section 43.7 of the Civil Code as amended by Section 1.8 of Chapter 1081 of the Statutes of 1983 shall have no force or effect.

CHAPTER 1013

An act to amend Sections 67028, 67033, 67101, and 67131.5 of, to add Sections 45017 and 67051.3 to, and to add and repeal Section 67094 of, the Food and Agricultural Code, relating to avocados.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 45017 is added to the Food and Agricultural Code, to read:

45017. (a) The committee may recommend to the director that avocados subject to weather-related damage not be harvested for a specified period of time and the director may restrict harvesting based on that recommendation.

(b) The director shall adopt regulations which govern the committee's recommendations made pursuant to this section. The regulations shall include, but not be limited to, all of the following:

(1) The maximum period of time for which harvesting may not be done.

(2) The geographical region for which the recommendation would be made.

(3) The minimum level of damage required in order to make a recommendation.

(4) The manner in which affected growers and handlers are to be notified of the decision of the director.

(5) A definition of weather-related damage.

(6) Procedures and criteria for issuing exemptions to growers from the decision of the director made pursuant to this section and for the handling of avocados from an exempt grower.

SEC. 1.5. Section 67028 of the Food and Agricultural Code is amended to read:

67028. "Distributor" means any person who engages, in this state, in the operation of selling, marketing, or distributing avocados which he or she has produced or purchased or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. "Distributor" does not include a cooperative bargaining association that recommends that its members market their avocados through specified handlers and which otherwise is not involved in the sale of avocados. It also does not include a retailer, except for a retailer who purchases or acquires from any producer, or handles on behalf of any producer, avocados which were not previously subjected to regulation by the commission.

SEC. 2. Section 67033 of the Food and Agricultural Code is amended to read:

67033. (a) "Independent producer or grower" means an individual who markets at least 75 percent of his volume of fruit as measured in pounds through other than a nonprofit cooperative marketing organization.

(b) A person standing for election as an independent producer shall be required to sign an affidavit attesting that he or she sold at least 75 percent of his or her fruit independently in the preceding crop year.

SEC. 3. Section 67051.3 is added to the Food and Agricultural Code, to read:

67051.3. A person nominated for election as a cooperative producer shall sign a sworn statement that he or she marketed at least 75 percent of his or her fruit through cooperative handlers in the preceding crop year.

SEC. 4. Section 67094 is added to the Food and Agricultural Code, to read:

67094. (a) In order to prevent unfair trade practices which are detrimental to California's avocado industry, including, but not limited to, deception and misinformation, the commission shall collect and disseminate to any and all interested persons, handler F.O.B., market price information based on sales which have occurred.

(b) The identity of each handler reporting information and the information reported under this section shall be kept confidential and not made public under any circumstances. Information that

gives industry totals, averages, and other similar data may be disclosed by the commission.

(c) The procedure for the collection and dissemination of the information pursuant to this section shall be approved by the director.

(d) This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 5. Section 67101 of the Food and Agricultural Code is amended to read:

67101. The commission shall, not later than November 1 of each year, determine the assessment for the following 12 months beginning November 1st and ending October 31st. The commission shall establish an assessment that in no event shall exceed 6½ percent of the gross dollar value of the year's sales of avocados by all producers to handlers, or which are sold by handlers on behalf of growers. Expenditures for administrative purposes within the maximum assessment shall not exceed 2½ percent of the gross dollar value of sales of avocados by all producers to handlers, or which are sold by handlers on behalf of growers. Assessments provided for in this section shall be upon the producer. The handler shall deduct that assessment from amounts paid by him or her to the producer and shall be a trustee of those funds until they are paid to the commission at the time and in the manner prescribed by the commission.

In no event shall the combined assessment of the commission and any state marketing order exceed 6½ percent of the gross value of the year's sales of avocados by all producers to handlers, or which are sold by handlers on behalf of growers.

SEC. 6. Section 67131.5 of the Food and Agricultural Code is amended to read:

67131.5. The operations of this chapter shall be reapproved and continued in effect if the director finds, in the referendum required pursuant to Section 67131, that a majority of the eligible growers voting in the referendum, voted in favor of continuing the operations of this chapter.

CHAPTER 1014

An act to amend Sections 8304, 8305.5, 8306.8, 9054, and 11038 of, to add Section 8304.5 to, to repeal and add Section 8305 of, and to repeal Sections 8307.5 and 8307.6 of, the Fish and Game Code, relating to abalone.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 8304 of the Fish and Game Code is amended to read:

8304. (a) It is unlawful to take, possess, sell, or purchase any abalone, the shell of which, measured in greatest diameter, is less than the following specifications:

(1) Red abalone, 7¾ inches.

(2) Green abalone, 7 inches.

(3) Pink abalone and white abalone, 6¼ inches.

(4) Black abalone, 5¾ inches.

(5) All other abalone, 4 inches.

(b) This section is operative only if Section 8304.5 is not operative.

SEC. 2. Section 8304.5 is added to the Fish and Game Code, to read:

8304.5. (a) It is unlawful to take, possess, sell, or purchase any abalone, the shell of which, measured in greatest diameter, is less than the following specifications:

(1) Red abalone, 7½ inches.

(2) Green abalone, 6¾ inches.

(3) White abalone, 6¼ inches.

(4) Pink abalone, 6 inches.

(5) Black abalone, 5¾ inches.

(6) All other abalone, 4 inches.

(b) Except as provided in subdivisions (c) and (d), it is unlawful for a holder of a permit which authorizes the taking of abalone for commercial purposes to possess, land, or control more than 120 red, green, or pink abalone, in combination, at any time.

(c) The holder of a permit which authorizes the taking of abalone for commercial purposes may possess, land, or control not more than 180 red, green, or pink abalone, in combination, if they were taken on a fishing trip of more than one day's duration and if the holder of the permit has complied with fishing notification requirements for fishing trips of more than one day's duration established by the commission by regulation.

(d) Abalone, in excess of the limits specified in subdivision (b) or (c), may be possessed or controlled when being transported on land.

(e) This section shall not become operative until, and shall remain operative only so long as, the director finds and certifies to the Secretary of State that regulations adopted by the commission under Section 8306 are in effect that establish a maximum number of abalone diving permits which is 100 or less and that the total number of abalone diving permits issued is 100 or less.

SEC. 3. Section 8305 of the Fish and Game Code is repealed.

SEC. 4. Section 8305 is added to the Fish and Game Code, to read:

8305. (a) It is unlawful to take abalone for commercial purposes in Districts 6, 7, 15, 16, 17, and 19A; in District 10 north of Point Lobos; and in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) It is unlawful to take abalone for commercial purposes in waters less than 20 feet deep in District 10 adjacent to the mainland south of Point Lobos; District 19 adjacent to the mainland south of Point Dume; District 20 between Southeast Rock and China Point; and District 20A.

SEC. 5. Section 8305.5 of the Fish and Game Code is amended to read:

8305.5. Notwithstanding Section 8305, in District 19, within one mile of the shores of Anacapa, Santa Barbara, Santa Cruz, Santa Rosa, San Nicolas, San Clemente, and San Miguel Islands and in less than 20 feet of water, abalones may be taken for commercial purposes, except that, upon a finding that the further taking of abalone will endanger the resource, the director may close that area or any part of that area to the taking of abalone for commercial purposes until such time as the director determines that the taking will no longer endanger the resource.

SEC. 6. Section 8306.8 of the Fish and Game Code is amended to read:

8306.8. Abalone may not be taken for commercial purposes except under a revocable abalone diving or crewmember permit issued by the department under regulations as the commission shall prescribe. The diving permit fee is two hundred dollars ($200). The crewmember permit fee is one hundred dollars ($100).

Except where the taking of abalone for commercial purposes is prohibited, diving apparatus may be used to take abalone in Districts 10, 18, 19, 20, and 20A.

It is unlawful to take black abalone for commercial purposes along the mainland coast, except as otherwise specifically authorized by this article.

SEC. 7. Section 8307.5 of the Fish and Game Code is repealed.

SEC. 8. Section 8307.6 of the Fish and Game Code is repealed.

SEC. 9. Section 9054 of the Fish and Game Code is amended to read:

9054. Rakes, airlifts, or other handheld appliances may be used to take sea urchins under a revocable, nontransferable permit issued by the department, subject to regulations prescribed by the commission.

SEC. 10. Section 11038 of the Fish and Game Code is amended to read:

11038. The following constitutes Fish and Game District 118:

The ocean waters and tidelands lying within the following boundaries:

Beginning at the south side of the pier at San Simeon thence westerly three miles, thence southerly to a point three miles west of the southern boundary of the state park at Cambria in San Luis Obispo County, thence easterly to the southwest point of the state park at Cambria.

All of the provisions relating to District 18 shall apply to District 118.

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

CHAPTER 1015

An act to amend Section 40000.24 of, and to add Section 38301.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 38301.5 is added to the Vehicle Code, to read:

38301.5. Every person convicted of violating a local ordinance which is adopted by a city with a population over 2,000,000 persons pursuant to Section 38301 and which prohibits entry into all or portions of an area designated by ordinance as a mountain fire district shall be punished as follows:

(a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars ($150).

(b) For a second offense committed within one year of a prior violation for which there was a conviction punishable under subdivision (a), the offense is punishable as an infraction by a fine not exceeding two hundred fifty dollars ($250).

(c) (1) For a third or subsequent offense committed within one year of two or more prior violations for which there were convictions punishable under this section, the offense is punishable as a misdemeanor by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment. Additionally, the court may order impoundment of the vehicle used in the offense under the following conditions:

(A) The person convicted under this subdivision is the owner of the vehicle.

(B) The vehicle is subject to Section 38010.

(2) The period of impoundment imposed pursuant to this subdivision shall be not less than one day nor more than 30 days. The impoundment shall be at the owner's expense.

SEC. 2. Section 40000.24 of the Vehicle Code is amended to read:

40000.24. A violation of any of the following provisions shall constitute a misdemeanor and not an infraction:

(a) Subdivision (c) of Section 38301.5, relating to unauthorized operation of a vehicle within a mountain fire district.

(b) Section 38316, relating to reckless driving.

(c) Section 38317, relating to reckless driving with injury.

(d) Section 38319, relating to protection of the environment.

(e) Section 38320, relating to the depositing of matter.

SEC. 3. Section 40000.24 of the Vehicle Code is amended to read:

40000.24. A violation of any of the following provisions shall constitute a misdemeanor and not an infraction:

(a) Subdivision (c) of Section 38301.5, relating to unauthorized operation of a vehicle within a mountain fire district.

(b) Section 38316, relating to reckless driving.

(c) Section 38317, relating to reckless driving with injury.

(d) Subdivision (a) of Section 38318 or subdivision (a) of Section 38318.5, relating to off-highway vehicles.

(e) Section 38319, relating to protection of the environment.

(f) Section 38320, relating to the depositing of matter.

SEC. 4. Section 3 of this bill incorporates amendments to Section 40000.24 of the Vehicle Code proposed by both this bill and SB 1476. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 40000.24 of the Vehicle Code, and (3) this bill is enacted after SB 1476, in which case Section 2 of this bill shall not become operative.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1016

An act to amend Sections 14341 and 14342 of the Business and Professions Code, and to add Section 350 to the Penal Code, relating to trademarks.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 14341 of the Business and Professions Code is amended to read:

14341. The enumeration of any right or remedy in this chapter

shall not affect a registrant's right to prosecute under any penal law of this state including, but not limited to, Section 350 of the Penal Code.

SEC. 2. Section 14342 of the Business and Professions Code is amended to read:

14342. No service mark or trademark registered pursuant to this chapter shall be enforced under the provisions of Section 14320, 14330, or 14340, or Section 350 of the Penal Code, against any party who has adopted and lawfully used the same or a confusingly similar service mark in the rendition of like services or trademark in the manufacture or sale of like goods in the State of California from a date prior to the effective date of registration of the service mark or trademark under this chapter.

SEC. 3. Section 350 is added to the Penal Code, to read:

350. (a) Any person who, without the consent of the registrant, willfully manufactures, or intentionally sells any counterfeit of a mark registered with the Secretary of State and registrable under 15 United States Code 1052 or incontestable under 15 United States Code 1065, shall upon conviction, if such person is an individual, be fined not more than five thousand dollars ($5,000) or imprisoned in the county jail for not more than one year, or both, or if such person is a corporation, be fined not more than one hundred thousand dollars ($100,000).

(b) Any person who has been convicted of a violation of subdivision (a) shall upon subsequent conviction, if such person is an individual, be fined not more than fifty thousand dollars ($50,000) or imprisoned in the county jail for not more than one year or the state prison, or both, or if such person is a corporation, be fined not more than two hundred thousand dollars ($200,000).

(c) Any person who has been convicted of a violation of subdivision (a) and who, by virtue of the conduct which was the basis of the conviction, has directly and foreseeably caused death or great bodily injury to another through reliance on the counterfeited item for its intended purpose shall, if the person is an individual, be fined not more than fifty thousand dollars ($50,000) or imprisoned in the state prison for two, three, or four years, or both, or, if that person is a corporation, be fined not more than two hundred thousand dollars ($200,000).

(d) If, in any action brought under this section, the court determines that a mark is counterfeit, the court may order the destruction of all such marks, all means of making the marks, and all goods, articles, or other matter bearing the marks, which are in the possession or control of the court or of the defendant; or, after obliteration of the counterfeit mark, the court may dispose of those materials by ordering their transfer to the State of California, an eleemosynary institution, or the owner of the registered service marks or trademarks.

(e) For purposes of this section, the term "counterfeit mark" means a spurious mark which is identical with, or substantially

indistinguishable from, a registered mark and which is used on or in connection with the same type of goods or services for which the genuine mark is registered.

(f) This section shall not be enforced against any party who has adopted and lawfully used the same or confusingly similar mark in the rendition of like services or the manufacture or sale of like goods in this state from a date prior to the effective date of registration of the service mark or trademark pursuant to Chapter 2 (commencing with Section 14200) of Division 6 of the Business and Professions Code.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1017

An act to amend Section 1183 of, and to add Section 2269.1 to, the Civil Code, and to amend Sections 591.6, 927, and 1200.5 of the Probate Code, relating to estates.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

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

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

(a) A minister, commissioner, or chargè d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.

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

(c) A judge of a court of record of the country where the proof or acknowledgment is made.

(d) Commissioners appointed by the Governor or Secretary of State for that purpose.

(e) A notary public.

If the proof or acknowledgment is made before a notary public, the signature of the notary public shall be proved or acknowledged (1) before a judge of a court of record of the country where the proof or acknowledgment is made, or (2) by any American diplomatic officer, consul general, consul, vice consul, or consular agent, or (3)

by an apostille (certification) affixed to the instrument pursuant to the terms of The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

SEC. 2. Section 2269.1 is added to the Civil Code, to read:

2269.1. (a) In the absence of an express provision to the contrary in a trust instrument, whenever the instrument directs, requires, authorizes, or permits investment in obligations of the United States government, the trustee may invest in and hold those obligations directly or in the form of an interest in, either or both a money market mutual fund registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) or an investment vehicle authorized for the collective investment of trust funds pursuant to Section 9.18 of Part 9, Title 12 of the Code of Federal Regulations, the portfolios of which are limited to United States government obligations maturing not later than five years from the date of investment or reinvestment and to repurchase agreements fully collateralized by United States government obligations. However, nothing in this section alters the degree of care and judgment required of trustees by subdivision (a) of Section 2261.

(b) This section shall apply only to trusts created on or after January 1, 1985.

SEC. 3. Section 591.6 of the Probate Code is amended to read:

591.6. Unless restricted by the will, an executor or administrator who has been granted authority to administer the estate without court supervision shall have all of the following powers, in addition to any other powers granted by this code, which powers can be exercised in the manner provided in this article:

(a) To manage, control, convey, divide, exchange, partition, and to sell for cash or on credit; to lease for any purpose, including exploration for and removal of gas, oil, or other minerals; to enter into community oil leases; and to grant options to purchase real property for a period within or beyond the administration of the estate.

(b) To invest and reinvest money of the estate in deposits in banks and insured savings and loan association accounts and in eligible securities for the investment of surplus state moneys as provided for in Section 16430 of the Government Code; to invest and reinvest any surplus moneys in his or her hands in any manner provided by the will.

(c) To borrow, to place, replace, renew or extend any encumbrance upon any property in the estate.

(d) To abandon worthless assets or any interest therein.

(e) To make ordinary or extraordinary repairs or alterations in buildings or other property.

(f) To vote a security, in person or by general or limited proxy.

(g) To sell or exercise stock subscription or conversion rights.

(h) To hold a security in the name of a nominee or in any other form without disclosure of the estate, so that title to the security may pass by delivery, but the executor or administrator is liable for any

act of the nominee in connection with the security so held.

(i) To insure the assets of the estate against damage or loss, and the executor or administrator against liability with respect to third persons.

(j) To allow, pay, reject, contest and compromise any claim by or against the estate by compromise; to release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible; to institute, compromise and defend actions and proceedings.

(k) To pay taxes, assessments, and other expenses incurred in the collection, care and administration of the estate.

(*l*) To continue the operation of the decedent's business to such extent as he or she shall deem to be for the best interest of the estate and those interested therein.

(m) To pay a reasonable family allowance.

(n) To make a disclaimer.

(o) To grant an exclusive right to sell property for a period not to exceed 90 days, where necessary and advantageous to the estate.

SEC. 4. Section 709 of the Probate Code is amended to read:

709. If an action is pending against the decedent at the time of his or her death, the plaintiff shall in like manner file his or her claim with the clerk or present it to the executor or administrator for allowance or rejection, authenticated as required in other cases. No recovery shall be allowed against decedent's estate in the action unless proof is made of the filing or presentation. If, however, the action which is pending is an action for damages, the decedent was insured therefor, the insurer has accepted the defense of the cause, and an appearance has been made in such action on behalf of the decedent, no claim shall be required except for amounts in excess of or not covered by the insurance. Further, if any action is pending against the decedent at the time of his or her death and a claim based on such action is not filed or presented within the prescribed period, the court may thereafter allow filing of the claim on such terms as may be just and equitable, upon the claimant's verified petition and notice of hearing given pursuant to Section 1200.5, if it finds that the claim was not filed or presented previously because neither the claimant nor his attorney had actual knowledge of the decedent's death at least 15 days prior to the expiration of the prescribed period for filing or presenting the claim, but any property distributed pursuant to court order or any payment properly made before notice of such petition shall not be subject to the claim.

No relief shall be granted unless the petition is filed within a reasonable time after discovery of decedent's death and in any event within one year after the expiration of said prescribed period, and before petition for final distribution has been filed.

If, at the time of filing the petition hereunder, assets of the estate have been paid to general creditors or some thereof or have been distributed by decree of preliminary distribution to heirs, devisees or legatees (in either case after expiration of the prescribed time for

claims), and it appears that the filing and later establishment of the claim, in the circumstances, would cause or tend to cause unequal treatment between heirs, devisees, legatees or creditors, then permission to file the claim shall be denied.

SEC. 5. Section 927 of the Probate Code is amended to read:

927. Any person interested in the estate may appear and file written exceptions to the account, and contest the account, including objecting to the values of assets shown on the inventories and appraisements filed in the proceedings. If, upon hearing the written exceptions to the account, the court determines the exceptions were filed without reasonable cause and good faith, the court may order that the fees of the executor or administrator and of his or her attorney and any costs incurred for defending the accounting be made a charge against the person or persons filing the written exceptions.

Upon the hearing, the executor or administrator may be examined on oath touching the account and the property and effects of the decedent, and the disposition thereof. All matters, including allowed claims not passed upon on the settlement of any former account and not reduced to judgment, may be contested for cause shown. The court may appoint one or more referees to examine the accounts, and make report thereon, subject to confirmation; may allow a reasonable compensation to them to be paid out of the estate; and may issue such other orders as the court may deem necessary to effect the provisions of this section.

The amendment to this section adopted at the 1981–82 Regular Session of the Legislature applies only to estates of decedents where an account was filed on or after January 1, 1982.

SEC. 6. Section 1200.5 of the Probate Code, as amended by Section 20.3 of Chapter 451 of the Statutes of 1984, is amended to read:

1200.5. (a) Notice shall be given in the manner prescribed in subdivision (b) upon the filing of any of the following:

(1) A petition under Section 641 for the setting aside of an estate.

(2) A petition to set apart a homestead or exempt property.

(3) A petition relating to the family allowance filed after the return of the inventory.

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such.

(5) A petition for the sale of stocks or bonds.

(6) A petition for confirmation of a sale or a petition to grant an option to purchase real property.

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine.

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security.

(9) A petition for leave to lease or to exchange property, or to

institute an action for the partition of property.

(10) A petition for an order authorizing or directing the investment of money.

(11) An account of an executor or administrator or trustee.

(12) A petition for partial or ratable or preliminary or final distribution.

(13) A petition for the delivery of the estate of a nonresident.

(14) A petition for determination of heirship or interests in an estate.

(15) A petition of a trustee for instructions.

(16) A petition for the appointment of a trustee.

(17) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued.

(18) A report of status of administration.

(19) A petition for family allowance.

(20) An objection to the appraisement made by the executor, administrator, or probate referee.

(21) A petition under Section 709 for leave to file a claim against the estate after the expiration of the prescribed period.

(22) Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) At least 10 days before the time set for the hearing of the petition or account, the petitioner or person filing the account shall cause notice of the time and place of hearing to be mailed to the executor or administrator, when he or she is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person.

(c) Proof of the giving of notice shall be made at the hearing; and, if it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order, and the order shall be conclusive upon all persons when it becomes final.

(d) This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

(e) The notice required by this section shall be in addition to the

notice, if any, required to be given in the manner specified in Section 1200.

CHAPTER 1018

An act to amend Sections 828 and 829 of, and to add Section 827 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 827 is added to the Unemployment Insurance Code, to read:

827. Whenever the unencumbered balance of interest deposited in or earned by the School Employees Fund, after deducting administrative expenses paid or encumbered, exceeds two million dollars ($2,000,000) as of the close of each fiscal year, the unencumbered balance shall be credited as of the close of that fiscal year to the account of each school employer which has a positive balance in the fund, in the proportion that each positive account balance bears to the total of all positive account balances.

SEC. 2. Section 828 of the Unemployment Insurance Code is amended to read:

828. Each school employer shall be responsible for a quarterly local experience charge as set forth below, together with the charges or penalties set by the administrator for administrative indiscretions, including tardiness and error, as well as all costs for benefits and administration resulting from failure to properly cover an employee. The reimbursement for charges shall be delinquent 30 days from the date of notice and if not paid within the time required, the school employer shall pay a penalty of 10 percent of the unpaid amount, plus interest at the adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code from and after the date of delinquency until paid. The local experience charge to be levied against each school employer shall be computed as follows:

Local Experience Charge

(a) The local experience charge rate shall be 10 percent for the first three complete fiscal years of participation in the School Employees Fund.

(b) The local experience charge rate for the fourth fiscal year, and each succeeding fiscal year, shall be determined by dividing the reserve balance at the end of the fiscal year which began 24 months prior to the fiscal year for which the rate is being calculated by the

benefits paid for that same prior fiscal year.

The factor derived is the employer's reserve ratio. If, as of the computation date, the school employer's reserve ratio equals or exceeds that which appears on any line in column 1 of the following table, but is less than that which appears in column 2 of that table, the local experience charge rate shall be the figure appearing on that same line in column 3 of that table.

Line	Reserve Ratio	Rate
1	negative to 1.00	15%
2	1.00 to 2.00	10%
3	2.00 to 3.00	5%
4	3.00 or more	0

(c) The rate determined in subdivision (a) or (b) shall be multiplied by the employer's quarterly benefit charges to compute the local experience charges.

The administrator shall, not later than March 31 of each year, notify each school employer participating in the School Employees Fund of their local experience charge rate for the succeeding fiscal year.

SEC. 3. Section 829 of the Unemployment Insurance Code is amended to read:

829. The total amount derived in step (c) of Section 828 shall be the amount that the school employer, county superintendent of schools, or empowered entity shall on behalf of the employers under that jurisdiction reimburse the School Employees Fund in the State Treasury. However, this amount shall not exceed 1.7 percent of the actual annual wages paid by a school employer in the immediately preceding calendar year as indicated in the four quarterly reports to the department.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1019

An act to amend Section 15330 of the Government Code, relating to state publications and services.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 15330 of the Government Code, as amended by Chapter 478 of the Statutes of 1984, is amended to read:

15330. The Department of Commerce shall be the principal state agency responsible for:

(a) Coordinating federal-state-local relationships in economic development, the continual evaluation of the impact of policies and programs affecting economic development, and encouraging the full utilization of programs available for assisting the residents of the state and local public entities in satisfying the economic development needs of the state.

(b) Applying for and allocating federal funds available under the Public Works and Economic Development Act of 1965, as amended, and such other federal funds as may be available which will promote and assist economic development in the state.

(c) Assisting state agencies, offices, and departments to implement the state economic policy pursuant to Part 12 (commencing with Section 15900) of Division 3 of Title 2 and serving as an advisory agency to the Governor in the preparation of the Economic Report of the Governor as required by Section 15901.

(d) Responding to inquiries and providing statistics and other information on the economy, visitor attractions, international trade, products and processes, and services provided by the department.

(e) The department in carrying out its responsibilities shall make maximum use of base data and studies currently being prepared and distributed by other state agencies. It shall avoid duplication of these efforts where possible.

(f) Assisting employees of a business or place of work in the formation of an employee-owned corporation, as defined by Section 91502.1, at that business or place of work, at the request of the employees and when that business or place of work is closing or is in danger of closing, by providing technical assistance, information, or access to sources of financing. The responsibilities created by this subdivision shall be permissive in the absence of nonstate funds unless state funds are specifically authorized by the Legislature for the purposes of this subdivision.

(g) Marketing California as a cost-effective and advantageous place for businesses to locate or expand. This subdivision shall not be construed to require any local government to participate, except in a voluntary manner, in this program.

(h) In order to defray costs to the General Fund of providing publications, as defined in Section 14902, when warranted in the opinion of the director, the department may charge fees to cover estimated printing and mailing costs for publications, except for publications distributed pursuant to Sections 14900, 14901, 14903, 14904, 14905.1, and 14907.

The department may adopt and enforce rules and regulations in order to implement the above responsibilities.

CHAPTER 1020

An act to amend Sections 6072, 6459, 6482, 6513, 6591, 6907, 6936, 7655, 7656, 7661, 7674, 7706, 8130, 8151, 8754, 8777, 8803, 8876, 9155, 9174, 12258, 12287, 12307, 12631, 12632, 12983, 13107, 30171, 30179, 30185, 30202, 30223, 30281, 30366, 30406, 32253, 32254, 32271, 32291, 32405, 32417, 40065, 40072, 40083, 40101, 40116, 40130, 41071, 41082, 41095, 41105, 41113, 43154, 43156, 43201, 43455, 43477, 44061, 44072, 44090, 44105, and 44125 of, and to add Section 6591.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 6072 of the Revenue and Taxation Code is amended to read:

6072. A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his or her permit to the board for cancellation. The board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.

Any person who knowingly issues a resale certificate while the person is not actively engaged in business as a seller, for personal gain or to evade the payment of taxes, shall be liable for the taxes that would otherwise have been due on the transaction, plus a penalty of 10 percent or five hundred dollars ($500), whichever is greater, in addition to all other penalties imposed by this part, and interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 2. Section 6459 of the Revenue and Taxation Code is amended to read:

6459. The board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment.

SEC. 3. Section 6482 of the Revenue and Taxation Code is amended to read:

6482. The amount of the determination, exclusive of penalties,

shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 4. Section 6513 of the Revenue and Taxation Code is amended to read:

6513. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 5. Section 6591 of the Revenue and Taxation Code is amended to read:

6591. Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of this chapter, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 6. Section 6591.5 is added to the Revenue and Taxation Code, to read:

6591.5. (a) "Modified adjusted rate per annum" means the adjusted annual rate established pursuant to Section 19269, plus three percentage points.

(b) "Modified adjusted rate per month, or fraction thereof" means the modified adjusted rate per annum divided by 12.

SEC. 7. Section 6907 of the Revenue and Taxation Code is amended to read:

6907. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which

interest is computed on the tax or amount against which the credit is applied.

SEC. 9. Section 6936 of the Revenue and Taxation Code is amended to read:

6936. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 10. Section 7655 of the Revenue and Taxation Code is amended to read:

7655. Any distributor who fails to pay the amount of license tax shown to be due by his return on or before the 25th day of the month following the monthly period to which it relates must pay a penalty of 10 percent of the license tax, together with interest on that license tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the license tax became due and payable to the state until the date of payment.

SEC. 11. Section 7656 of the Revenue and Taxation Code is amended to read:

7656. The board for good cause may extend for not to exceed one month the time for making any report or return or paying any tax required under this part. The extension may be granted at any time; provided, a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any distributor to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension to the date of payment.

SEC. 12. Section 7661 of the Revenue and Taxation Code is amended to read:

7661. All determinations so made, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 25th day of the month after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 13. Section 7674 of the Revenue and Taxation Code is amended to read:

7674. All deficiency determinations, exclusive of penalty, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 25th day of the month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 14. Section 7706 of the Revenue and Taxation Code is

amended to read:

7706. All jeopardy determinations including those made under Section 7704, exclusive of penalty, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 25th day of the month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 15. Section 8130 of the Revenue and Taxation Code is amended to read:

8130. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 25th day of the month following the monthly period for which the overpayment is made; but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 25th day of the month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 16. Section 8151 of the Revenue and Taxation Code is amended to read:

8151. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5 upon the amount of the license tax found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 17. Section 8754 of the Revenue and Taxation Code is amended to read:

8754. The board for good cause may extend for not to exceed one month the time for making any return or paying any tax required under this part. The extension may be granted at any time; provided, a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any user to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension to the date of payment.

SEC. 18. Section 8777 of the Revenue and Taxation Code is amended to read:

8777. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or

fraction thereof, established pursuant to Section 6591.5, from the 25th day of the month following the month for which the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 19. Section 8803 of the Revenue and Taxation Code is amended to read:

8803. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 25th day of the month following the month for which the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 20. Section 8876 of the Revenue and Taxation Code is amended to read:

8876. Any user who fails to pay any tax, except taxes determined by the board under Article 2 (commencing with Section 8776) or Article 3 (commencing with Section 8801) of this chapter, within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

SEC. 21. Section 9155 of the Revenue and Taxation Code is amended to read:

9155. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the 25th day of the month following the period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 25th day of the month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 22. Section 9174 of the Revenue and Taxation Code is amended to read:

9174. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part and Part 2 (commencing with Section 7301), and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5 upon the amount found to have been illegally collected from the date of

payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 23. Section 12258 of the Revenue and Taxation Code is amended to read:

12258. Any insurer who fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

SEC. 24. Section 12287 of the Revenue and Taxation Code is amended to read:

12287. The retaliatory tax shall be due and payable on or before December 1st and shall be paid by remittance made payable to the Controller. If not paid on or before the due date, the amount of retaliatory tax shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from December 1st until the date of payment, and there shall be paid in addition to the tax and interest, a penalty of 10 percent of the amount of the retaliatory tax.

SEC. 25. Section 12307 of the Revenue and Taxation Code is amended to read:

12307. Any insurer to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1st until the date of payment.

SEC. 26. Section 12631 of the Revenue and Taxation Code is amended to read:

12631. Any insurer who fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the tax until the date of payment.

SEC. 27. Section 12632 of the Revenue and Taxation Code is amended to read:

12632. An insurer who fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.

SEC. 28. Section 12983 of the Revenue and Taxation Code is amended to read:

12983. Interest shall be allowed upon the amount of any overpayment of tax pursuant to this part at the modified adjusted rate per annum established pursuant to Section 6591.5, from the due date of the tax for the year for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 29. Section 13107 of the Revenue and Taxation Code is amended to read:

13107. In any judgment, interest shall be allowed, subject to the same limitations as are prescribed by Section 12984, at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

SEC. 30. Section 30171 of the Revenue and Taxation Code is amended to read:

30171. Any distributor who fails to pay any amount owing for the purchase of stamps or meter register settings within the time required, shall pay a penalty of 10 percent of the amount due in addition to the amount plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount became due and payable until the date of payment.

SEC. 31. Section 30179 of the Revenue and Taxation Code is amended to read:

30179. Interest shall be computed, allowed and paid upon any overpayment for the purchase of stamps or meter register settings at the modified adjusted rate per month established pursuant to Section 6591.5, from the due date for payment of the purchase for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which

interest is computed on the tax or amount against which the credit is applied.

SEC. 32. Section 30185 of the Revenue and Taxation Code is amended to read:

30185. Except as otherwise provided in Section 30172, the board for good cause may extend for not to exceed one month the time for making any report or paying any amount of tax required under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted pursuant to this section shall pay, in addition to the amount of tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount of tax would have been due without the extension to the date of payment.

SEC. 33. Section 30202 of the Revenue and Taxation Code is amended to read:

30202. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 34. Section 30223 of the Revenue and Taxation Code is amended to read:

30223. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 35. Section 30281 of the Revenue and Taxation Code is amended to read:

30281. Any person who fails to pay any tax, except a tax determined by the board under Article 2 (commencing with Section 30201) or Article 3 (commencing with Section 30221), within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable until the date of payment.

SEC. 36. Section 30366 of the Revenue and Taxation Code is amended to read:

30366. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 25th day of the calendar month following the monthly period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 37. Section 30406 of the Revenue and Taxation Code is amended to read:

30406. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 38. Section 32253 of the Revenue and Taxation Code is amended to read:

32253. The board for good cause may extend for not to exceed one month the time for making any report or paying any tax. Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the tax would have been due without the extension to the date of payment.

SEC. 39. Section 32254 of the Revenue and Taxation Code is amended to read:

32254. All taxes not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from and after that date until paid.

SEC. 40. Section 32271 of the Revenue and Taxation Code is amended to read:

32271. If the board is dissatisfied with the return or returns filed or amount of tax paid to the state by any taxpayer, it may compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 15th day after the close of the period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment. In making a determination, the board may offset overpayment for a period or periods against underpayments for another period or periods and against the

interest and penalties on the underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized rules, a penalty of 10 percent of the amount of the determination shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized rules, a penalty of 25 percent of the amount of the determination shall be added, plus interest as above provided. The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 41. Section 32291 of the Revenue and Taxation Code is amended to read:

32291. If any taxpayer fails to make a return required by this part, the board shall make an estimate, based upon any information available to it, for the period or periods with respect to which the taxpayer failed to make a return of all alcoholic beverages sold in this state by him. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus fixed a penalty equal to 5 percent thereof. One or more determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 15th day of the month following the close of the period for which the amount of the tax, or any portion thereof, should have been returned until the date of payment. In making a determination the board may offset overpayments for a period or periods against underpayments for another period or periods and against interest and penalties on the underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of this part or authorized rules, an additional penalty of 10 percent of the amount of the determination shall be added. If the neglect or refusal of a taxpayer to file a return as required by this part was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 percent thereof in addition to the 5 percent penalty. The board shall give to the taxpayer written notice of the

estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by Section 32271.

SEC. 42. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 15th day of the calendar month following the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 43. Section 32417 of the Revenue and Taxation Code is amended to read:

32417. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 44. Section 40065 of the Revenue and Taxation Code is amended to read:

40065. The board for good cause may extend not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the surcharge, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge would have been due without the extension of the date of payment.

SEC. 45. Section 40072 of the Revenue and Taxation Code is amended to read:

40072. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the day of payment.

SEC. 46. Section 40083 of the Revenue and Taxation Code is

amended to read:

40083. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 47. Section 40101 of the Revenue and Taxation Code is amended to read:

40101. Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or Article 4 (commencing with Section 40081), within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

SEC. 48. Section 40116 of the Revenue and Taxation Code is amended to read:

40116. Interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, shall be paid upon any overpayment of any amount of surcharge from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 49. Section 40130 of the Revenue and Taxation Code is amended to read:

40130. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 50. Section 41071 of the Revenue and Taxation Code is amended to read:

41071. The amount of the determination, exclusive of penalties,

shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 60th day following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 51. Section 41082 of the Revenue and Taxation Code is amended to read:

41082. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the 60th day following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 52. Section 41095 of the Revenue and Taxation Code is amended to read:

41095. Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 41070) or Article 4 (commencing with Section 41080), within the time required shall pay a penalty of 10 percent of the surcharge or amount of the surcharge or ten dollars ($10), whichever is greater, in addition to the tax or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 53. Section 41105 of the Revenue and Taxation Code is amended to read:

41105. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the date the return is due following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the surcharge or amount against which the credit is applied.

SEC. 54. Section 41113 of the Revenue and Taxation Code is amended to read:

41113. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon

the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 55. Section 43154 of the Revenue and Taxation Code is amended to read:

43154. The board for good cause may extend, for a period of time not to exceed one month, the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment.

SEC. 56. Section 43156 of the Revenue and Taxation Code is amended to read:

43156. All taxes not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from and after that date until paid.

SEC. 57. Section 43201 of the Revenue and Taxation Code is amended to read:

43201. (a) If the board is dissatisfied with the return or report filed or the amount of tax paid to the state by any taxpayer, or if no return or report has been filed or no payment or payments of the taxes have been made to the state by a taxpayer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one, or for more than one, period. The amount of tax so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount of the tax, or any portion thereof, became due and payable until the date of payment. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized regulations, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided above.

(c) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized regulations, a penalty of 25 percent of the amount of the determination shall be added, plus

interest as provided in subdivision (a).

(d) The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, sub-post office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 58. Section 43455 of the Revenue and Taxation Code is amended to read:

43455. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the due date of the return for the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 59. Section 43477 of the Revenue and Taxation Code is amended to read:

43477. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 60. Section 44061 of the Revenue and Taxation Code is amended to read:

44061. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the day specified pursuant to Section 44051 for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 61. Section 44072 of the Revenue and Taxation Code is

amended to read:

44072. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the day specified pursuant to Section 44051 for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 62. Section 44090 of the Revenue and Taxation Code is amended to read:

44090. Any person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 44070) or Article 4 (commencing with Section 44080), within the time required shall pay a penalty of 10 percent of the amount of the tax due in addition to the tax due plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

SEC. 63. Section 44105 of the Revenue and Taxation Code is amended to read:

44105. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the date the return is due following the quarterly period for which the overpayment was made. However, no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 64. Section 44125 of the Revenue and Taxation Code is amended to read:

44125. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 65. This act shall become operative on July 1, 1985.

CHAPTER 1021

An act to amend Sections 35104 and 36102 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 35104 of the Vehicle Code is amended to read:

35104. The limitations as to width do not apply to the following vehicles except that these vehicles shall not exceed a width of 120 inches:

(a) Special mobile equipment.

(b) Special construction or highway maintenance equipment.

(c) Motor vehicles designed for, and used exclusively to, haul feed for livestock that are exempted from registration by subdivision (c) of Section 36102, except when operated on a highway during darkness.

SEC. 2. Section 36102 of the Vehicle Code is amended to read:

36102. The following vehicles are exempt from registration if they have and display identification plates, as specified in Section 36125; and these vehicles, except when operated pursuant to subdivision (k) of Section 36005, shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) An automatic bale wagon operated unladen on a highway.

(b) An automatic bale wagon when transporting baled hay or straw for a distance of not more than five continuous road miles on a highway from one parcel of property owned, leased, or controlled by a farmer to another parcel of property owned, leased, or controlled by such farmer.

(c) A motor vehicle which is designed for, and used exclusively to, haul feed for livestock and which is owned and operated exclusively by a farmer or an employee of a farmer. A vehicle exempted by this subdivision may be operated only on those highways that are maintained by local authorities, only pursuant to a permit issued as provided in Section 35780 by the local authority having jurisdiction over the highways used, and only for a distance of not more than five continuous road miles from one parcel of property owned, leased, or controlled by the farmer to another parcel of property owned, leased, or controlled by the farmer. This subdivision does not apply to transportation for compensation.

SEC. 3. Section 36102 of the Vehicle Code is amended to read:

36102. The following vehicles are exempt from registration if they have and display identification plates, as specified in Section 5014; and these vehicles, except when operated pursuant to

subdivision (k) of Section 36005, shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) An automatic bale wagon operated unladen on a highway.

(b) An automatic bale wagon when transporting baled hay or straw for a distance of not more than five continuous road miles on a highway from one parcel of property owned, leased, or controlled by a farmer to another parcel of property owned, leased, or controlled by such farmer.

(c) A motor vehicle which is designed for, and used exclusively to, haul feed for livestock and which is owned and operated exclusively by a farmer or an employee of a farmer. A vehicle exempted by this subdivision may be operated only on those highways that are maintained by local authorities, only pursuant to a permit issued as provided in Section 35780 by the local authority having jurisdiction over the highways used, and only for a distance of not more than five continuous road miles from one parcel of property owned, leased, or controlled by the farmer to another parcel of property owned, leased, or controlled by the farmer. This subdivision does not apply to transportation for compensation.

SEC. 4. Section 3 of this bill incorporates amendments to Section 36102 of the Vehicle Code proposed by both this bill and AB 3585. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 36102 of the Vehicle Code, and (3) this bill is enacted after AB 3585, in which case Section 36102 of the Vehicle Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 3585, at which time Section 3 of this bill shall become operative.

CHAPTER 1022

An act to amend Sections 1090 and 35120 of the Education Code, relating to school districts.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 1090 of the Education Code is amended to read:

1090. The board of supervisors may allow to each member of the county board of education as compensation not less than twenty dollars ($20), nor more than eighty dollars ($80), for each meeting of the board actually attended. However, compensation shall not be allowed for more than five meetings in any calendar month. The amount shall be determined by the county board of supervisors or,

in a county having a fiscally independent county board of education, by the county board of education. There may also be allowed to each member who uses a privately owned automobile in the discharge of necessary official duties as a member of the county board of education the same amount as allowed any county official in the performance of his or her official duties. The mileage rates allowed in this section shall be based on the total mileage claimed in a calendar month.

SEC. 2. Section 35120 of the Education Code is amended to read:

35120. (a) (1) In any school district in which the average daily attendance for the 1982–83 school year exceeded 400,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed two thousand dollars ($2,000) per month.

(2) In any school district in which the average daily attendance exceeds 60,000 and which is not located in a city and county, or in any school district in which the average daily attendance exceeded 60,000 in the 1982–83 school year or any subsequent school year, and which is not located in a city and county, the governing board may prescribe, as compensation for the services of each member of the board who actually attends all meetings held, a sum not to exceed one thousand five hundred dollars ($1,500) in any month.

(3) In any school district in which the average daily attendance for the 1982–83 school year was less than 60,000, except a district which also comes within the terms of the preceding sentence, but more than 25,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed seven hundred fifty dollars ($750) in any month.

(4) In any school district in which the average daily attendance for the 1982–83 school year was 25,000 or less but more than 10,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed four hundred dollars ($400) in any month.

(5) In any school district in which the average daily attendance for the 1982–83 school year was 10,000 or less but more than 1,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed two hundred forty dollars ($240) in any month.

(6) In any school district in which the average daily attendance for the 1982–83 school year was 1,000 or less but more than 150, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed one hundred twenty dollars ($120) in any month.

(7) In any school district in which the average daily attendance

for the 1982–83 school year was less than 150, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed sixty dollars ($60) per month.

Any member who does not attend all meetings held in any month may receive, as compensation for his or her services, an amount not greater than the maximum amount allowed by this subdivision divided by the number of meetings held and multiplied by the number of meetings actually attended.

(b) The compensation of members of the governing board of a school district newly organized or reorganized after June 30, 1983, shall be governed by subdivision (a). For this purpose, the total average daily attendance in all of the schools of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the 1982–83 school year.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the school district or districts.

(d) The compensation shall be a charge against the funds of the school district. If the city board of education or the governing board of the district is the governing board of more than one school district, the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them. Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city board of education from any funds of the city.

CHAPTER 1023

An act to amend Sections 6490.1, 22840.5, 23302.5, 23314, 23521.5, 23528, 23555, and 27341 of, and to repeal Section 23559 of, the Elections Code, relating to elections.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 6490.1 of the Elections Code is amended to read:

6490.1. Notwithstanding the provisions of Section 6490 or any other provision of the law, if nomination documents for an incumbent officer of a county are not delivered by 5 p.m. on the 88th day before the direct primary election, any person other than the person who was the incumbent on the 88th day shall have until 5 p.m.

on the 83rd day before the election to file nomination documents for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 2. Section 22840.5 of the Elections Code is amended to read:

22840.5. Notwithstanding the provisions of Sections 22836 and 22840, if nomination papers for an incumbent officer of the city are not filed by 5 p.m. on the 68th day before the election, the voters shall have until 5 p.m. on the 63rd day before the election to nominate candidates other than the person who was the incumbent on the 68th day for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 3. Section 23302.5 of the Elections Code is amended to read:

23302.5. Notwithstanding any other provision of the law, whenever other elections are consolidated a regularly scheduled election, the period for the filing of nomination documents by candidates in elections consolidated with the regularly scheduled election shall commence on the 113th day prior to the election. The nomination documents shall be filed not later than 5 p.m. on the 88th day prior to the regularly scheduled election in the office of the appropriate officer during regular office hours.

SEC. 4. Section 23314 of the Elections Code is amended to read:

23314. Whenever an election is to be held on the same day as a statewide election, including a statewide special election, or an election held pursuant to Section 2602 or 2603, the election may be consolidated with the statewide election. If consolidated, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, candidates nominated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, and all other proceedings incidental to and connected with the election shall be regulated and done, in accordance with the provisions of the law regulating the statewide or regularly scheduled election.

The precincts used at the consolidated election shall be those used for the statewide or regularly scheduled election, and, where necessary, the county clerk may adjust precinct lines to coincide with the boundaries of the particular jurisdiction.

SEC. 5. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding any other provision of law, in any district or agency election, if nomination papers for an incumbent elective officer of a district are not filed by 5 p.m. on the 88th day before the general district election, any person other than the person who was the incumbent on the 88th day shall have until 5 p.m. on the 83rd day before the election to file nomination papers for the elective office.

This section is not applicable where there is no incumbent to be elected.

SEC. 6. Section 23528 of the Elections Code is amended to read:

23528. At least 29 days prior to the day fixed for the general district election, the county clerk shall do all of the following:

(a) Establish a convenient number of election precincts within the affected county.

(b) Define the precinct boundaries.

(c) Designate a polling place for each precinct.

(d) Appoint for each precinct one inspector, one or more judges and one or more clerks who shall constitute a precinct board for the precinct. Each precinct board member shall be a voter of the precinct for which the member is appointed or a voter of a precinct situated in the same general area.

(e) Notify the members of each precinct board of their appointment and the location of the precinct and polling place where they will serve.

The county clerk, in establishing precincts and defining their boundaries, shall, to the extent practicable, provide for a single polling place where a voter entitled to vote in more than one district may cast all of his or her ballots.

In a landowner voting district, the county clerk shall designate the polling place at which a nonresident landowner shall vote.

SEC. 7. Section 23555 of the Elections Code is amended to read:

23555. The county clerk shall immediately make and deliver to each person elected a certificate of election signed by the county clerk.

SEC. 8. Section 23559 of the Elections Code is repealed.

SEC. 9. Section 27341 of the Elections Code is amended to read:

27341. Nominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(a) The nomination papers and the declaration of candidacy shall, in each case, be filed no less than 68 days prior to the date of the election and not before the day the order of the election is issued.

(b) If the clerk is required to certify to the governing board the names of the candidates to be placed on the ballot, that shall be done by the 64th day prior to the election.

(c) No person whose recall is being sought may be a candidate to succeed himself or herself at a recall election.

CHAPTER 1024

An act to amend Sections 46144 and 51762 of, to add Sections 51760.3 and 51762.5 to, and to repeal Section 51761 of, the Education Code, relating to schools.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 46144 of the Education Code is amended to read:

46144. The minimum day in special day or Saturday vocational training programs and for pupils enrolled in a work experience education program approved under Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 is four periods totaling at least 180 minutes in duration.

SEC. 2. Section 51760.3 is added to the Education Code, to read:

51760.3. The governing board of any school district offering work experience education pursuant to the authority of Section 51760 shall grant credit to pupils satisfactorily completing a work experience education program, in an amount not to exceed a total of 40 semester credits, of which no more than 10 credits may be conferred in any one semester, provided the pupil meets all of the following requirements:

(a) At the time of enrollment, the pupil is at least 16 years of age. Pupils under the age of 16 years may receive credit for work experience education under the following conditions:

(1) The pupil is enrolled in grade 11 or a higher grade.

(2) The principal of the school in which the pupil is enrolled certifies that the pupil is in need of immediate work experience education in order to pursue employment opportunities.

(3) The principal of the school in which the pupil is enrolled certifies that there is a probability that the pupil will no longer be enrolled as a full-time pupil without being provided the opportunity to enroll in a work experience education program.

(4) The pupil's individualized education program adopted pursuant to the requirements of Part 30 (commencing with Section 56000), prescribes the type of training for which participation in a work experience program is deemed appropriate.

(b) The pupil receives as a minimum the equivalent of one instructional period per week of classroom instruction or counseling, at least twice each semester, by a certificated employee during the course of the pupil's enrollment in the program.

(c) The work experience education program meets all of the requirements of law governing these programs.

SEC. 3. Section 51761 of the Education Code is repealed.

SEC. 4. Section 51762 of the Education Code is amended to read:

51762. The Department of Education shall adopt any rules and regulations necessary to implement the standards set by the Superintendent of Public Instruction, in order to maintain the educational purpose and character of work experience education.

SEC. 5. Section 51762.5 is added to the Education Code, to read:

51762.5. The Superintendent of Public Instruction shall adopt

standards for district plans required by subdivision (b) of Section 46300. The adopted standards shall include, but shall not necessarily be limited to, all of the following:

(a) Selection and approval of work stations.

(b) Classroom instruction.

(c) Supervision of pupils.

(d) Formal training agreements.

(e) Paid and unpaid on-the-job work experience programs.

(f) Academic credit for participation in work experience education programs.

CHAPTER 1025

An act to amend Section 11971 of the Health and Safety Code, relating to drug programs.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 11971 of the Health and Safety Code is amended to read:

11971. A narcotic and drug abuse program includes, but is not limited to:

(a) Halfway houses, which are those places which provide a residential setting and which provide such services as detoxification, counseling, care, treatment, and rehabilitation in a live-in facility.

(b) Drop-in centers, which are any places which are established for the purpose of providing counseling, advice, or a social setting for one or more persons who are attempting to understand, alleviate or cope with their problems of narcotics addiction or drug abuse.

(c) Crisis lines, which are those services which provide a telephone answering service which provides, in whole or in part, a crisis intervention, counseling or referral or a source of general narcotics or drug abuse information.

(d) Free clinics, which are those places which are established for the purpose, either in whole or in part, of providing any medical or dental care or any social services or any treatment or referral to such services for those persons recognized as having a problem of narcotics addiction or drug abuse. Free clinics include primary care clinics licensed under paragraph (2) of subdivision (a) of Section 1204.

(e) Detoxification centers, which are those places established for the purpose of detoxification from narcotics or dangerous drugs, regardless of whether or not narcotics, restricted dangerous drugs, or other medications are administered in said detoxification and regardless of whether detoxification takes place in a live-in facility or

on an outpatient basis.

(f) Methadone programs, which are any programs, whether inpatient or outpatient, which offer methadone maintenance, detoxification or other services in conjunction with such methadone maintenance or detoxification, and those programs which provide supportive services to such methadone maintenance or detoxification programs.

(g) Nonspecific drug programs, which are those programs not specifically mentioned above but which provide or offer to provide, in whole or in part, for counseling, therapy, referral, advice, care, treatment or rehabilitation as a service to those persons suffering from narcotics addiction, drug habituation or other narcotics and drug abuse related problems which are either physiological or psychological in nature.

CHAPTER 1026

An act to amend Section 11515 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 11515 of the Vehicle Code is amended to read:

11515. (a) Whenever an insurance company makes a total loss settlement on a total loss salvage vehicle, the insurance company shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, shall issue a salvage certificate for the vehicle.

(b) Whenever the owner of a total loss salvage vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with the provisions of this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, shall issue a salvage certificate for the vehicle.

(c) Whenever a total loss salvage vehicle is not the subject of an

insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department.

(d) Whenever a total loss salvage vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department.

(e) Upon sale or disposal of a total loss salvage vehicle, the owner or salvage pool, if the vehicle is sold or disposed of through a salvage pool, shall deliver a properly endorsed salvage certificate to the purchaser within 10 days after payment in full for the salvage vehicle and shall also comply with Section 5900. The department shall accept the endorsed salvage certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department.

(f) This section does not apply to a vehicle which has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a total loss salvage vehicle.

(g) A violation of subdivision (a), (b), (d), or (e) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a violation of subdivision (c) is an infraction, except that if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.

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

CHAPTER 1027

An act to amend Sections 6025.5 and 12511 of the Water Code, relating to water.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 6025.5 of the Water Code is amended to read:

6025.5. (a) Notwithstanding any other provision, subject to subdivision (b), the requirements for state regulation and supervision of safety of dams, as contained in this division, shall not be applicable to waste water treatment and storage ponds constructed as a part of a waste water control facility.

(b) This section applies to those ponds specified in subdivision (a) only after the governing body of the city, county, district, or other agency which operates the waste water control facility adopts a resolution which (1) finds that the ponds have been constructed and operated to standards adequate to protect life and property, and (2) provides that the city, county, district, or other agency shall supervise and regulate the design, construction, operation enlargement, replacement, and removal of the ponds after the effective date of the resolution.

(c) This section applies only to ponds specified in subdivision (a) which (1) have a maximum height of 15 feet or less and a maximum storage capacity of 1,500 acre-feet or less, (2) have been designed by, and constructed under the supervision of, a registered civil engineer, and (3) are not across a stream channel or watercourse.

SEC. 2. Section 12511 of the Water Code is amended to read:

12511. The board consists of eight members appointed by the Governor as provided in this chapter, two of whom shall be public members appointed by the Governor, and the Director of Water Resources and the Director of Fish and Game or their designees.

CHAPTER 1028

An act to amend Section 2416 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 2416 of the Vehicle Code is amended to read:

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a constable, deputy constable, marshal, deputy marshal, or person who is a

member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to such person a publicly owned authorized emergency vehicle.

(2) Any vehicle owned and operated by a public utility, used primarily to accomplish emergency repairs to utility facilities or used primarily by railroad policemen, who are commissioned by the Governor, in the performance of their duties.

(3) Firefighting equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Any vehicle owned and operated by any fire company organized pursuant to Part 4 (commencing with Section 14825) of the Health and Safety Code.

(b) Privately owned ambulances may be operated as emergency vehicles only under a license issued in accordance with Chapter 2.5 (commencing with Section 2500).

(c) Vehicles of a privately owned ambulance operator licensed in accordance with Chapter 2.5 (commencing with Section 2500) used exclusively to transport medical supplies, lifesaving equipment, or personnel to the scene of an emergency when a request for medical supplies, lifesaving equipment, or personnel has been made by any person or public agency responsible for providing emergency medical transportation may be operated as emergency vehicles. For these purposes, these vehicles shall display a sign or lettering not less than two and one-half inches in height, in a color providing a sharp contrast to its background, on each side showing the name of the ambulance operator.

(d) The commissioner may adopt and enforce regulations to implement this section.

(e) Violation of any regulation adopted by the commissioner pursuant to this section is a misdemeanor.

CHAPTER 1029

An act to add and repeal Section 1439.2 of the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 1439.2 is added to the Health and Safety Code, to read:

1439.2. Every long-term health care facility shall provide an activity program to the residents of the facility to meet the needs and interests of the residents and to encourage self-care and resumption of normal activities, in accordance with a patient activity plan developed by the facility including, but not limited to, self-help skills, such as personal hygiene, care of personal effects and living environment, nutrition, management of bedside medications of nonprescription drugs, management of petty funds for personal use, and cooperative relations with peers and staff to help keep them closer to the reality of their environment. The patient activity plan of each individual shall be reviewed and approved in writing at least quarterly by the attending physician as not being in conflict with the patient's treatment plan.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1030

An act to amend Sections 33334.2 and 33413 of the Health and Safety Code, relating to community redevelopment.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings is made:

(1) That no need exists in the community to improve or increase the supply of low- and moderate-income housing in a manner which

would benefit the project area.

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing need.

(3) That a substantial effort to meet low- and moderate-income housing needs in the community is being made, and that this effort, including the obligation of funds currently available for the benefit of the community from state, local, and federal sources for low- and moderate-income housing alone or in combination with the taxes allocated under this section, is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. The legislative body shall consider the need which can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan.

(b) Within 10 days following the making of a finding under subdivision (a), the agency shall send the Department of Housing and Community Development a copy of the finding, including the factual information supporting the finding.

(c) In any litigation to challenge or attack a finding made under subdivision (a), (b), or (c), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purpose of this section, the agency may exercise any or all of its powers, including the following:

(1) Acquire land or building sites.

(2) Improve land or building sites with onsite or offsite improvements.

(3) Donate land to private or public persons or entities.

(4) Construct buildings or structures.

(5) Acquire buildings or structures.

(6) Rehabilitate buildings or structures.

(7) Provide subsidies to, or for the benefit of, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093.

(8) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

(g) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. The determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(i) The requirements of this section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after the effective date of this section, or for any area which is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

(j) (1) Notwithstanding Sections 50079.5, 50093, and 50105, for purposes of providing assistance to mortgagors participating in a homeownership residential mortgage revenue bond program pursuant to Section 33750, or a home financing program pursuant to Section 52020, or a California Housing Finance Agency home financing program, "area median income" means the highest of the following:

(A) Statewide median household income.

(B) Countywide median household income.

(C) Median family income for the area, as determined by the United States Department of Housing and Urban Development with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

Nothing in Section 50093 shall prevent the agency from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for the programs of the agency.

(2) To the extent that any portion of the Low and Moderate Income Housing Fund is expended to provide assistance to mortgagors participating in programs whose income exceeds that of persons and families of low or moderate income, as defined in Section 50093, the agency shall, within two years, expend or enter into a legally enforceable agreement to expend twice that sum exclusively to increase and improve the community's supply of

housing available at affordable housing cost, as defined in Section 50052.5, to lower income households, as defined in Section 50079.5, of which at least 50 percent shall be very low income households, as defined in Section 50105.

(3) In addition to the requirements of subdivision (c) of Section 33413, the agency shall require that the lower and very low income dwelling units developed pursuant to this subdivision remain available at affordable housing cost to lower and very low income households for at least 30 years, except as to dwelling units developed with the assistance of federal or state subsidy programs which terminate in a shorter period and cannot be extended or renewed.

(4) The agency shall include within the report required by Section 33080 information with respect to compliance by the agency with the requirements of this subdivision.

SEC. 2. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units at affordable housing cost within the project area or within the territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed within the project area by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Of the 30 percent, not less than 50 percent shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Of the 15 percent, not less than 40 percent shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply in the aggregate to housing in the project area and not to each individual case of rehabilitation, development, or construction of dwelling units.

(c) The agency shall require that the aggregate number of dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low or moderate income and very low income households, respectively, for not less than the period of the land use controls established in the redevelopment plan.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5

(commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. However, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to two replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, nothing in this section shall empower an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1031

An act to add Section 1597.531 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 1597.531 is added to the Health and Safety Code, to read:

1597.531. (a) All family day care homes for children shall either maintain in force liability insurance covering injury to clients and guests in the amount of at least three hundred thousand dollars ($300,000) for each injury or death sustained on account of the negligence of the licensee or its employees, or a bond in the aggregate amount of three hundred thousand dollars ($300,000). In

lieu of the liability insurance or the bond, the family day care home may maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care home does not carry liability insurance or a bond according to standards established by the state. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.

(b) The department shall initiate proceedings to revoke the license of any family day care home that is out of compliance with this section.

CHAPTER 1032

An act to add Section 12763 to the Government Code, and to amend Section 15034.5 of the Unemployment Insurance Code, relating to conflicts of interest.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 15034.5 of the Unemployment Insurance Code is amended to read:

15034.5. Notwithstanding Section 1090 of the Government Code, a member may vote on any matters before the private industry council, except those which have a direct bearing on services to be provided by that member (or any business or organization which that member directly represents) or which would financially benefit the member or the business or organization which the member directly represents.

SEC. 2. Section 12763 is added to the Government Code, to read:

12763. Notwithstanding Section 1090, a member may vote on any matters before a community development district board, as provided for in the Housing and Community Development Act of 1974 (Pub. L. 93-383), except those which have a direct bearing on services to be provided by that member (or any business or organization which that member directly represents) or which would financially benefit the member or the business or organization which the member directly represents.

CHAPTER 1033

An act to amend Sections 4040, 4041, and 4042.3 of, to add Section 4042.4 to, and to add Article 5 (commencing with Section 4043.5) and Article 6 (commencing with Section 4044) to Chapter 7.5 of Part 1 of Division 5 of, the Health and Safety Code, relating to water.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 4040 of the Health and Safety Code is amended to read:

4040. (a) "Bottled water," means any drinking water or other water defined in Section 4044, which is placed in bottles or other containers to be sold for drinking, culinary, or other purposes involving a likelihood of the water being ingested by human beings.

(b) "Water-bottling plant" means any facility in which bottled water is produced.

(c) "Water-vending machine" means any self-service device which, upon insertion of a coin, coins, or token, or upon receipt of payment by other means, dispenses unit servings of water in bulk, without the necessity of refilling the machine between each operation.

SEC. 2. Section 4041 of the Health and Safety Code is amended to read:

4041. (a) The state department shall adopt and enforce the regulations it determines are reasonably necessary to ensure that all bottled water and vended water which is sold or otherwise distributed in this state is pure, wholesome, and potable and without danger to the lives or health of human beings. The regulations shall include, but not be limited to, all of the following:

(1) Minimum standards for the sanitary production and distribution of bottled water within this state. Standards for the sanitary production, packaging, and distribution of bottled water shall not be less stringent than those standards prescribed by Part 129 of Title 21 of the Code of Federal Regulations.

(2) Quality standards for bottled water and vended water.

The quality standards of bottled water and vended water shall not be less stringent than those standards prescribed by Section 103.35 of Title 21 of the Code of Federal Regulations, except as provided in paragraph (3) of subdivision (b) of Section 4044 of this code. The quality standards may include any additional standards that the state department determines are reasonably necessary to protect public health and safety.

(3) Minimum standards of design, construction, and sanitation for any water-vending machine.

(4) Standards for labeling and advertising of bottled water and

vended water, which shall be in accordance with state laws relating to labeling and advertising.

(5) Standards for processing bottled water through a line or lines used for any other food product.

(b) The state department, upon the request of a local health officer, may authorize the local health officer to implement and enforce those provisions of this chapter which relate to water vending machines under the terms and conditions specified by the state department.

SEC. 3. Section 4042.3 of the Health and Safety Code is amended to read:

4042.3. The state department shall charge and collect a fee for each license applied for which shall be an amount reasonably necessary to produce sufficient revenue to enforce the provisions of this chapter.

SEC. 4. Section 4042.4 is added to the Health and Safety Code, to read:

4042.4. The state department may deny any license application or revoke or suspend any license issued for cause. The state department shall inform the person of any denial, revocation, or suspension in writing, stating with particularity reasons for the denial, revocation, or suspension.

For purposes of this section, "cause" means a violation of any provision of this chapter or any regulation adopted pursuant thereto.

SEC. 5. Article 5 (commencing with Section 4043.5) is added to Chapter 7.5 of Part 1 of Division 5 of the Health and Safety Code, to read:

Article 5. Testing

4043.5. The state department shall require each bottler, distributor, or vendor of bottled water, each owner or operator of any water-vending machine, and each applicant for a license to test for all substances necessary to establish conformance to standards adopted pursuant to Section 4041 at the times and frequencies the state department may establish.

4043.6. Notwithstanding any other provisions of this chapter, the state department may require any bottler, distributor, or vendor of bottled water, any owner or operator of a water-vending machine, or any applicant for a license to test for any substance, including organic chemical contaminants, at any time which the state department believes the substance may be present in the water source and threaten the public health and safety.

SEC. 6. Article 6 (commencing with Section 4044) is added to Chapter 7.5 of Part 1 of Division 5 of the Health and Safety Code, to read:

Article 6. Labeling

4044. (a) Each container of bottled water sold in this state and each water-vending machine located in this state shall be clearly labeled in an easily readable format. Bottled water may be labeled "drinking water," notwithstanding the source or characteristics of the water, only if it is processed pursuant to the Food and Drug Administration Good Manufacturing Practices contained in Section 103.35 and Part 129 of Title 21 of the Code of Federal Regulations and any other requirements established by the state department pursuant to Sections 4043.5 and 4043.6. Any vended water may be labeled "drinking water," notwithstanding the source or characteristics of the water, only if it is processed pursuant to Article 5 (commencing with Section 28660) of Chapter 11 of Division 22 and any other requirements established by the state department pursuant to Sections 4043.5 and 4043.6.

(b) In addition to the requirements of subdivision (a), if a manufacturer provides information in the labeling or advertising of bottled water or vended water, stating or implying it is the product of a specific source of water or treated in a specific manner, the source or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the following criteria:

(1) "Artesian well water" means water from a well tapping an aquifer in which the water level will stand above the bottom of the confining bed of the aquifer, and in which the hydraulic pressure of the water in the aquifer is greater than the force of gravity. Artesian well water shall not be altered by the addition or deletion of minerals or by blending it with water from another source, except that artesian well water may be filtered and treated with ozone or an equivalent disinfection process. Any water which satisfies the designation of this paragraph may be labeled "artesian well water."

(2) "Fluoridated water" means water containing naturally occurring or added fluoride. The label shall specify whether it is naturally occurring or added fluoride. Any water which meets the designation of this paragraph shall contain not less than 1.0 milligram per liter fluoridization and otherwise comply with the Food and Drug Administration quality standards set forth in Section 103.35(d)(2) of Title 21 of the Code of Federal Regulations.

(3) "Mineral water" means bottled water or vended water containing more than 500 milligrams per liter of total dissolved solids and originating entirely from an underground source. Bottled or vended mineral water may be derived from a natural orifice or from a bore hole adjacent to the natural orifice. If it is derived from a natural orifice by external force or from a bore hole adjacent to the natural orifice, the water shall be from the same underground stratum and be of the same quality and composition as the water derived from the natural orifice without external force. Mineral water may contain one or more naturally occurring chemical

constituents listed in the Primary or Secondary Drinking Water Standards of the Environmental Protection Agency in excess of the concentrations listed in Section 103.35 of Title 21 of the Code of Federal Regulations. Mineral water may not be altered by the addition or deletion of minerals or by blending it with water from another source, except that mineral water may be filtered and treated with ozone or an equivalent disinfection process. Mineral water may be collected and transported by pipes, tunnels, trucks, or similar devices. On or before January 1, 1987, the state department shall adopt quality standards for any naturally occurring constituents of mineral water listed in the Environmental Protection Agency's Primary Drinking Water Standards. In adopting the standards, the state department shall take into account the unique qualities of mineral water, the natural components of mineral water, and the rate of consumption of mineral water, as compared to drinking water. The standards shall not be more stringent than those established for bottled water. Any water which meets the criteria of this paragraph may also be labeled "natural mineral water."

(A) Mineral water which contains carbon dioxide as it emerges from the source and is bottled directly with its entrapped gas, or, the gas is mechanically separated from the water and later reintroduced into the water at the time of bottling shall be labeled "naturally carbonated" or "naturally sparkling."

(B) Mineral water which contains carbon dioxide, other than that naturally occurring in the source product, shall be labeled with the words "carbonation added" or "carbon dioxide added" when the carbonation is obtained from a natural or manufactured source.

(4) "Mineralized water" means bottled or vended water which meets the requirements of "mineral water" except that the water contains added minerals.

(5) "Natural water" means bottled or vended spring, artesian well, or well water which is unmodified by mineral addition or deletion, except that "natural water" may be filtered and sanitized with ozone or an equivalent disinfection process and treated to reduce the concentration of any substance which exceeds safety standards established by the state department.

(6) "Naturally sparkling water" means bottled water or vended water with a carbon dioxide content from the same source as the water. "Sparkling," "carbonated," or "carbonation added" means bottled water or vended water which contains carbon dioxide.

(7) "Purified water" means water produced by distillation, deionization, reverse osmosis, or other method meeting the definition of purified water in the 20th Edition of the United States Pharmacopeia. Water which meets the designation of this paragraph, and is vaporized, then condensed, may be labeled "distilled water."

(8) "Spring water" means water which issues by natural forces out of the earth at a particular place. Bottled or vended spring water may be derived from the natural orifice or from a bore hole adjacent to the natural orifice. If it is derived from the natural orifice by external

force or from a bore hole adjacent to the natural orifice, the water shall be from the same underground stratum and be of the same quality and composition as the water derived from the natural orifice without external force. Spring water may not be altered by the addition or deletion of minerals or by blending it with water from another source, except that spring water may be filtered and treated with ozone or an equivalent disinfection process. Spring water may be collected and transported by pipes, tunnels, trucks, or similar devices.

(9) "Well water" means water from a hole bored into the ground which taps the water of an aquifer, except that well water may be filtered and treated with ozone or an equivalent disinfection process.

(10) Notwithstanding any other provision of this section, water from a public water system which is unprocessed by the bottler or vendor shall be labeled as "unprocessed public drinking water."

4044.2. Except as provided in paragraph (3) of subdivision (b) of Section 4044, any bottled water or vended water, the quality of which is below the quality required by this chapter, shall be labeled with a statement of substandard quality, as prescribed by Section 103.35 of Title 21 of the Code of Federal Regulations.

4044.3. Any bottler, distributor, vendor of bottled water, or owner or operator of any water-vending machine, whose corporate name or trademark contains the words "spring" or "springs," or any derivative of either of these words, or "well," "artesian well," or "natural" shall label each bottle or vending machine with the source of the water in typeface at least equal to the size of the typeface of the corporate name or trademark, if the source of the bottled or vended water is different from the source stated in the corporate name or trademark.

4044.4. The state department prior to issuing a license shall review all labels prepared pursuant to this article, and may require any changes in order to comply with the provisions of this article.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1034

An act to amend Section 12765 of the Insurance Code, relating to insurance.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 12765 of the Insurance Code is amended to read:

12765. Notwithstanding Section 12760 or any other provision of this code, the waiver or forgiveness of a marketing fee otherwise payable by a franchised real estate licensee under the terms of its franchise agreement shall not be unlawful where pursuant to the franchise agreement the waiver or forgiveness occurs in the event the franchisee markets or sells a home protection contract issued by the franchisor or its parent, subsidiary, or affiliate and the following disclosure statement is presented in writing to the person offered those contracts, at the time the contract is offered:

"The home protection contract offered by your _____ broker is issued by an affiliate of
(company)
the broker's franchisor on an exclusive basis. If you purchase this coverage a $_____ marketing fee customarily paid by the broker or franchisee to the franchisor will be waived. Other home protection companies offer similar coverage. You may wish to review the cost and terms of coverage, other offerings, and your need for home protection before you buy."

The person offered such contracts shall acknowledge receipt of the disclosure by affixing his or her signature or initials to the document containing the disclosure.

This section only applies to the waiver or forgiveness of a marketing fee otherwise payable by a franchised real estate licensee under the terms of a franchise agreement where, as of July 1, 1981, the franchise agreement form provided for the waiver or forgiveness of a marketing fee in the event the franchisee markets or sells a home protection contract issued by the franchisor or its parent, subsidiary, or affiliate.

This section shall remain in effect until December 31, 1985, and as of that date is repealed.

CHAPTER 1035

An act to add Section 14998.55 to the Government Code, relating to state government.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) California is the home of the motion picture, television, and related entertainment industries.

(b) The state greatly benefits from the jobs, tax base, technological innovations, and general economic developments that result from the entertainment industry's activity within the state.

(c) Other states are actively competing to draw the arts and entertainment industry production away from California, resulting in a loss of jobs, tax revenues, and general economic development to the state.

(d) These competing states are making large appropriations from their general funds to finance operations designed to draw arts and entertainment industry productions away from California.

(e) It is in the best interests of California to keep arts and entertainment industry production within the state, and the best way to accomplish this is through a state-industry partnership.

SEC. 2. Section 14998.55 is added to the Government Code, to read:

14998.55. The council shall submit an annual report to the Governor and the Legislature by December 31 which shall include, but not be limited to, the following:

(a) A budget showing expenditures made by the council during the previous year.

(b) A narrative on the accomplishments of the council during the previous year, including total number of films shot and produced in California and an estimate of the production budgets of those films, and a comparison of those totals with previous years and with other states.

(c) A description of the things other states and nations are doing to promote and secure motion picture production within their borders.

(d) An analysis of problems and barriers to motion picture production in California and proposed remedies, including, but not limited to, problems and barriers arising from permitting procedures, location availability, labor regulations, taxes, and state and local government law.

(e) Proposed activities by the council for the coming year, and how those activities will help maintain and increase motion picture production in California.

CHAPTER 1036

An act to amend Section 61601.3 of, and to add Sections 61601.13, 61601.14, 61601.15, and 61601.20 to, the Government Code, relating to local agencies.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 61601.3 of the Government Code, as added by Chapter 179 of the Statutes of 1984, is amended to read:

61601.3. (a) Notwithstanding Section 61601 or Section 20681 of the Public Contract Code, whenever the board of directors of a community services district, except the Groveland Community Services District, the McCloud Community Services District, the Clear Creek Community Services District, the Rancho Murieta Community Services District, or the Big Bear City Community Services District, determines by resolution that it is feasible, economically sound, and in the public interest for that district to exercise its power for the purpose of constructing, installing, owning, maintaining, or operating hydroelectric power generating facilities, which facilities are constructed on or after January 1, 1985, and transmission lines for the conveyance of hydroelectric power, the board shall adopt that additional purpose by resolution entered in the minutes, and that power of the district may be exercised thereafter.

The board may, thereafter, divest the district of the power to carry on those activities in the same manner as it may acquire the power.

(b) A community services district shall not acquire property that is utilized to generate hydroelectric power for public utility purposes at the time the district adopts the resolution described in subdivision (a), unless the owner of that property agrees to the acquisition of that property by the district.

(c) The facilities shall be operated in a manner consistent with the district's storage, transmission, and distribution of domestic and irrigation water and in accordance with the provisions of Chapter 2.95 (commencing with Section 35580) of Part 5 of Division 13 of the Water Code.

SEC. 1.5. Section 61601.13 is added to the Government Code, to read:

61601.13. (a) Notwithstanding Section 61601 or Section 20681 of the Public Contract Code, whenever the Board of Directors of the Rancho Murieta Community Services District determines by resolution that it is feasible, economically sound, and in the public interest for the district to exercise its power for the purpose of enforcing the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and to assume the

duties of the architectural control committee for each tract within the boundaries of the district and for any other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions, the board shall adopt the additional purpose by resolution entered in the minutes and the power of the district may be exercised thereafter for that purpose. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The board may thereafter divest the district of the power to carry on this activity in the same manner as it may acquire the power.

(b) At the next general district election, the question of whether the board may continue to exercise the power granted pursuant to subdivision (a) may, with the approval of the board of supervisors, be submitted to the voters of the district. If the proposition is not approved by a majority of the voters of the district voting on the proposition, the authority granted in subdivision (a) shall have no further force or effect.

SEC. 2. Section 61601.14 is added to the Government Code, to read:

61601.14. (a) Notwithstanding Section 61601 or Section 20681 of the Public Contract Code, whenever the Board of Directors of the Rancho Murieta Community Services District determines by resolution that it is feasible, economically sound, and in the public interest for the district to exercise its power for the purpose of acquiring, constructing, improving, maintaining, or operating television receiving, translating, or distribution facilities, to provide television and television-related services to the district and its inhabitants, to acquire, construct, improve, maintain, or operate telecommunication facilities, to provide telecommunication services to the district and its inhabitants, or to authorize the construction and operation of a cable television system or telecommunication system to serve the district and its inhabitants by franchise or license, the board may adopt the additional purposes by resolution entered in the minutes, and the powers of the district may thereafter be exercised for these purposes.

(b) In authorizing the construction and operation of a cable television system by franchise or license, the district shall have the same powers as a city or a county under Sections 53066 and 53066.1.

(c) In addition to any other authority granted to districts by this part to finance the facilities described in subdivision (a), the district shall, for the purpose of acquiring, constructing, improving, or financing these facilities, have the power to issue revenue bonds pursuant to Section 61613.1.

(d) At the next general district election, the question of whether the board may continue to exercise the power granted pursuant to subdivision (a) may, with the approval of the board of supervisors, be submitted to the voters of the district. If the proposition is not

approved by a majority of the voters of the district voting on the proposition, the authority granted in subdivision (a) shall have no further force or effect.

SEC. 3. Section 61601.15 is added to the Government Code, to read:

61601.15. (a) Notwithstanding Section 61601 or Section 20681 of the Public Contract Code, the Rancho Murieta Community Services District may construct, maintain, and operate hydroelectric power generating facilities and transmission lines for the coveyance of that power. The facilities shall be operated in a manner consistent with the district's storage, transmission, and distribution of irrigation and domestic water. The power to construct, maintain, and operate hydroelectric power generating facilities and transmission lines shall not include the power to acquire property which is already utilized in the generation of hydroelectric power for public utility purposes, except by mutual agreement between the district and the owner of that property.

(b) The hydroelectric facilities and transmission lines may be leased for operation to, or the power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity. The power generated may be used by the district for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than a public utility or public agency for any use other than the production or transmission of water.

(c) In addition to any other authority granted to districts to finance these facilities and transmission lines, the district shall, for the purpose of acquiring, constructing, improving, or financing these facilities and lines, have the power to issue revenue bonds pursuant to Section 61613.1.

(d) At the next general district election, the question of whether the board may continue to exercise the power granted pursuant to subdivision (a) may, with the approval of the board of supervisors, be submitted to the voters of the district. If the proposition is not approved by a majority of the voters of the district voting on the proposition, the authority granted in subdivision (a) shall have no further force or effect.

SEC. 4. Section 61601.20 is added to the Government Code, to read:

61601.20. (a) Notwithstanding Section 61601 or Section 20681 of the Public Contract Code, whenever the Board of Directors of the Golden West Community Services District determines by resolution that it is feasible, economically sound, and in the public interest for the district to exercise its power for the purpose of enforcing the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and to assume the duties of the architectural control committee for each tract within the boundaries of the district and for such other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of

development within the district as adopted in the covenants, conditions, and restrictions, the board shall adopt the additional purpose by resolution entered in the minutes and the power of the district may be exercised thereafter.

The board may thereafter divest the district of the power to carry on activities in the same manner as it may acquire the power.

(b) At the next general district election, the question of whether the board may continue to exercise the power granted pursuant to subdivision (a) may, with the approval of the board of supervisors, be submitted to the voters of the district. If the proposition is not approved by a majority of the voters of the district voting on the proposition, the authority granted in subdivision (a) shall have no further force or effect.

SEC. 5. The Legislature finds and declares that the Rancho Murieta Community Services District and the Golden West Community Services District have a special need to exercise the powers set forth in this act. The Legislature further finds and declares that this need is not common to all districts formed under the Community Services District Law. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution, and that the enactment of this act as a special law, is necessary for the solution of problems existing in the Rancho Murieta Community Services District and in the Golden West Community Services District.

CHAPTER 1037

An act to amend Sections 320 and 42005 of, add Chapter 1.5 (commencing with Section 11200) to Division 5 of, and to repeal Section 1660 and 1661 of, the Vehicle Code, relating to driving instruction.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 320 of the Vehicle Code is amended to read:

320. (a) "Established place of business" is a place actually occupied either continuously or at regular periods by:

(1) A dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school where the books and records pertinent to the type of business being conducted are kept. The place of business shall have an office and, in the case of a dealer, manufacturer, or remanufacturer, shall have a display or manufacturing area situated on the same property where the business peculiar to the type of license issued by the department is

or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single- or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to and occupied for the office or offices of the dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school, shall be located on the ground floor, and shall be so constructed as to provide a direct entrance into the room or rooms from the exterior of the building. A dealer who does not offer vehicles for sale at retail, or a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers, shall have an office, but a display area is not required.

(2) An automobile dismantler where the books and records pertinent to the type of business being conducted are kept. The place of business shall have an office and a dismantling area located in a zone properly zoned for that purpose by the city, county, or city and county. A place of business of an automobile dismantler which qualified as an "established place of business" before September 17, 1970, an "established place of business" as defined in this section.

(b) A licensee issued an occupational license by the department and conducting more than one type of business from an establishment, as herein defined, shall provide a clear physical division between the types of business involving vehicles or their component parts. The place of business shall be open to inspection of the premises, pertinent records, and vehicles by any peace officer during business hours.

SEC. 2. Section 1660 of the Vehicle Code is repealed.

SEC. 3. Section 1661 of the Vehicle Code is repealed.

SEC. 4. Chapter 1.5 (commencing with Section 11200) is added to Division 5 of the Vehicle Code, to read:

CHAPTER 1.5. TRAFFIC VIOLATOR SCHOOLS

11200. The department shall license schools for traffic violators for purposes of Section 42005. No person shall own or conduct a traffic violator school or give instruction for compensation in a traffic violator school without a currently valid license issued by the department.

11202. (a) An owner of a traffic violator school shall meet the following criteria before a license may be issued for the traffic violator school.

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this subdivision.

(2) Maintain an established place of business open to the public.

No office or place of business of a traffic violator school may be situated within 500 feet of any building used by the department as an office, or any court of law, unless the owner was established at the location on or before July 1, 1984.

(3) Conform to standards which shall be established by regulation of the department. In adopting the standards, the department shall consider those practices and instructional programs which may reasonably foster the knowledge, skills, and judgment necessary for the compliance with traffic laws. The standards may include, but are not limited to, school personnel, equipment, curriculum, procedures for the testing and evaluation of students, recordkeeping, and business practices.

(4) Except as provided in Section 11203, procure and file with the department a bond in the amount of two thousand dollars ($2,000) executed by an admitted surety and conditioned upon the applicant not practicing any fraud or making any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant.

(5) Have the proper equipment necessary for giving instruction to traffic violators.

(6) Execute and file with the department a good and sufficient instrument designating the director agent of the applicant for the purpose of service of process, as provided in this paragraph, in any action or actions which may thereafter be commenced against the applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of (A) a violation by the applicant of any of the provisions of this code committed in relation to the specifications of the applicant's traffic violator school or (B) any condition of the bond required by paragraph (4). The applicant shall stipulate and agree in the instrument that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence, may be served instead upon the director, or in the event of the director's absence from the department's principal offices, upon any employee in charge of the office of the director, and this substituted service shall be of the same legal force and effect as personal service of the applicant.

The instrument shall further stipulate and agree that the agency created by the designation shall continue for and during the period covered by the license issued pursuant to this section and so long thereafter as the applicant may be made to answer in damages for a violation of this code for which the surety may be made liable or any condition of the bond. The instrument designating the director as agent for service of process shall be acknowledged by the applicant before a notary public. In any case where the director or an employee of the department, in lieu of the director, is served with a summons and complaint on behalf of the licensee, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director

in Sacramento. A fee of five dollars ($5) shall also be paid to the director or employee at the time of service of the copy of the summons and complaint, or shall be included with a summons and complaint served by mail. The service on the director or department employee pursuant to this section shall be a sufficient service on the licensee if a notice of the service and a copy of the summons and complaint is, on the same business day as the service or mailing of the summons and complaint, sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or plaintiff's attorney to the surety on the licensee's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt.

The director shall keep a record of all processes so served upon him or her, which shall show the day and hour of service, and shall retain the documents served in the department's files. Where the licensee is served with legal process by service upon the director or a department employee in lieu of the director, the licensee shall be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For purposes of venue, where the licensee is served with process by service upon the director or a department employee in lieu of the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her established place of business.

(b) The qualifying requirements specified in subdivision (a) shall be met within one year from the date of application for a license, or a new application and fee shall be required.

11203. In lieu of the bond otherwise required by paragraph (4) of subdivision (a) of Section 11202, the applicant may deposit with the department cash in the amount of two thousand dollars ($2,000). The director may order the deposit returned at the expiration of three years from the date a traffic violator school licensee has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the licensee. A municipal or superior court may, upon petition, order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the court that there are no outstanding claims against the deposit. If either the director, department, or state is a defendant in any civil action instituted to recover all or any part of the deposit, or any civil action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the licensee recoverable from the deposit.

11204. The department shall issue a license certificate to each traffic violator school owner licensed pursuant to this chapter. The term of the license shall be for a period of one year from the date of issue unless canceled, suspended, or revoked by the department. The

license shall be renewed annually. The department shall require compliance with Section 11202 for the renewal of the license.

Where in its judgment the public interest so requires, the department may issue a probationary license subject to special conditions to be observed by the licensee in the conduct of the traffic violator school. The conditions to be attached to the license shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein. The conditions shall not appear on the license certificate.

Upon notification of death of a traffic violator school licensee, the department may issue a temporary license to the executor or administrator of the estate of a deceased holder of a validly outstanding license to conduct a traffic violator school, or if no executor or administrator has been appointed and until a certified copy of an order making such an appointment is filed with the department, a temporary license may be issued to the surviving spouse or other heir entitled to conduct the business of the deceased. The temporary license shall permit the holder to conduct the traffic violator school for a period of one year from and after the date of the original licensee's death, and necessary one-year extensions may be granted to permit disposal of the business and qualification for a license of a purchaser of the business or the surviving spouse or heir. The department may restrict or condition a temporary license and attach to the exercise of the privilege thereunder any terms and conditions that in the department's judgment are required for the protection of the public.

11205. The department shall annually publish a list of all schools which are licensed pursuant to this chapter. The department shall transmit a copy of the list to each justice court and each municipal court in the state. The department shall periodically revise the list so that each court may have a current list of all licensed traffic violator schools.

11206. The department shall license traffic violator school instructors. No person shall act as a traffic violator school instructor without a currently valid license issued by the department. Every person in order to qualify as a traffic violator school instructor shall meet the following requirements before an instructor's license may be issued:

(a) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this section.

(b) Have a high school education or its equivalent and have satisfactorily completed a course in the teaching of traffic violators meeting standards which shall be prescribed by the department.

(c) Within three attempts, pass an examination as required by the

department, on traffic laws, safe driving practices, operation of motor vehicles, and teaching methods and techniques.

(d) Have a good driving record, as determined by the department. The applicant's driving record shall not have any outstanding notice for violating a written promise to appear in court or for willfully failing to pay a lawfully imposed fine, as provided in Section 40509.

(e) Be 18 years of age or older.

All the qualifying requirements specified by this section shall be met within one year from the date of application for a license or the application shall lapse. However, the applicant may thereafter submit a new application upon payment of the requisite fee.

11207. (a) The department shall issue a license certificate to each traffic violator school instructor when it is satisfied that he or she has met the qualifications required under this chapter. The original instructor license and any license renewed pursuant to subdivisions (b) and (c) shall expire on the third birth date of the licensee following the date of application unless canceled, suspended, or revoked by the department.

(b) Every application for the renewal of a traffic violator school instructor license shall be made by the licensee not more than 30 days after expiration date of the license by presenting to the department a completed application on a form provided by the department.

(c) The department shall require all of the following for the renewal of an instructor's license:

(1) Compliance with Section 11206, except subdivision (c) thereof.

(2) Satisfactory completion of an examination as provided in Section 11206 at least once during each succeeding three-year period after the initial issuance of the license. However, in lieu of examination for renewal of the license, the department may accept submission by the licensee of evidence of continuing professional education.

(d) When in its judgment the public interest so requires, the department may issue a probationary license subject to special conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the license shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant, as disclosed by the application and investigation by the department of the information contained therein.

11208. (a) Fees for issuance by the department of a license to a traffic violator school owner shall be as follows:

(1) For the original license or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred fifty dollars ($150).

(2) For annual renewal of the license, a fee of fifty dollars ($50).

(3) If alteration of an existing license is required by a firm name change, a change in corporate officer structure, address change, or

the addition of a branch location, a fee of seventy dollars ($70).

(4) For replacement of the license when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(b) Fees for issuance by the department of a license for a driving school instructor shall be as follows:

(1) For the original license, except as provided by Section 42231, a nonrefundable fee of thirty dollars ($30).

(2) For the triennial renewal of a license, a fee of thirty dollars ($30).

(3) If alteration of an existing license is required by a change in the instructor's employing school's name or location, or transfer of the instructor's license to another employing school, a fee of fifteen dollars ($15).

(4) For replacement of the instructor's license when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(c) The department shall charge a fee not to exceed six dollars ($6) for issuing a completion certificate to each person completing instruction at a traffic violator school. The amount of the fee shall be determined by the department and shall be a fee sufficient to defray the actual costs incurred by the department for monitoring instruction, business practices, and records of schools for traffic violators and any other activities deemed necessary by the department to assure high quality education for traffic violators. Upon satisfactory completion of the instruction offered by a licensed traffic violator school, the student shall be provided with a certificate of completion on a form approved by the department.

11209. Any traffic violator school owner or instructor required to be licensed under this chapter who fails to renew the license within 30 days after the expiration of the license may not renew that license, but may reapply for an original license pursuant to provisions of this chapter. For purposes of this section, a license that has been canceled may not be renewed and a license that is suspended or revoked may not be renewed until reinstatement or reissuance by the department. If the period of suspension or revocation extends more than 30 days beyond the expiration of a license, it may not be renewed, but the person may apply for a new license thereafter.

11210. (a) Pending determination by the department that an applicant for a license fully satisfies the requirements of this chapter, the department may issue a temporary permit to the applicant. A temporary permit may authorize the operation of a traffic violator school or acting as a traffic violator school instructor for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant for the license.

(b) A temporary permit valid for 30 days may be issued to any applicant for an original traffic violator school instructor's license pending satisfactory completion of a course in teaching traffic violators required by subdivision (b) of Section 11206. If a temporary permit is issued to an applicant under both this subdivision and

subdivision (a), the aggregate duration of the permit shall not exceed 120 days.

(c) The department may cancel a temporary permit when it has determined or has reasonable cause to believe that the application is incorrect or incomplete or the temporary permit was issued in error. A temporary permit is invalid upon cancellation or once the applicant has been issued or denied the license applied for.

11211. (a) The department may refuse to issue a license to any applicant under this chapter when it is satisfied that any of the following exist:

(1) The applicant was previously the holder of a license under this chapter, which was revoked or suspended.

(2) The applicant has done any act or series of acts which would be a cause for suspension or revocation of licensure under Section 11215, regardless of whether the applicant was licensed under this chapter at the time of the act or acts.

(3) If the applicant is a partnership or corporation, one or more of the limited or general partners, stockholders, directors, or officers, was the holder of a previously issued license under this chapter that was suspended or revoked; or one or more of these partners, stockholders, or officers has done any act or series of acts which would be a cause for suspension or revocation of licensure under Section 11215, regardless of whether the person was licensed under this chapter at the time of the act or acts.

(4) By reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation, it is likely (A) that the policy or operation of the business will be directed, controlled, or managed by an individual who, by reason of an act, series of acts, or conduct described in paragraphs (2) and (3), would be ineligible for a license and (B) that by licensing the corporation or partnership the purposes of this division would likely be defeated.

(6) The applicant has knowlingly made a false statement or knowingly concealed a material fact in applying for a license under this chapter.

(b) Upon refusal of the department to issue a license under this chapter, the applicant shall be entitled to a hearing before the director or his representative, upon demand in writing submitted to the department within 60 days after notice of refusal. The hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A person whose license has been revoked or application for a license has been refused may reapply for such license after a period of not less than one year has elapsed from the effective date of the decision revoking the license or refusing the application.

11212. (a) Every person licensed under this chapter shall keep a record showing all of the following for each student:

(1) The name and address and license number of the traffic violator school providing instruction.

(2) The name and address of each person given instruction.

(3) The instruction permit number or driver's license number of every person given instruction.

(4) The name of the instructor.

(5) The particular type of instruction given and the date or dates of the instruction.

(6) A statement as to whether the approved lesson plan was followed.

(7) The total number of hours of instruction.

(8) The total cost to the student of the instruction.

(b) The records shall be retained for a minimum of three years and shall be open to the inspection during business hours and at all other reasonable times by the department, the Legislative Analyst, and the Auditor General or authorized employees thereof, but shall be only for confidential use.

(c) Whenever a licensee suspends or terminates the licensed activity, the licensee shall surrender the records specified in subdivision (a) to the department for examination not later than the end of the third day, excluding Saturdays, Sundays, and legal holidays, after the date of suspension or termination. The department may duplicate or make a record of any information contained therein. All these records shall be returned to the licensee not later than 30 days after the date of surrender.

11213. (a) Every traffic violator school owner licensed pursuant to this chapter shall notify the department within 10 days of any change in the ownership or corporate structure of the licensee.

(b) Every owner shall immediately notify the department upon changing the site or location of the school's established place of business.

(c) Every instructor licensed pursuant to this chapter shall report to the department every change of residence address within five days of the change.

11214. The department may monitor any school for traffic violators without advance notice.

11215. The department, after notice and hearing, may suspend or revoke any license issued under the provisions of this chapter when any of the following circumstances exist:

(a) Whenever the department is satisfied that the licensee ceases to meet any requirement that is prerequisite to obtaining a license under this chapter.

(b) Whenever the holder fails to comply with any requirement of this chapter or any regulation or requirement of the department adopted pursuant thereto, or otherwise violates a provision of this chapter or the regulations.

(c) Whenever the licensee engages in fraudulent practices either with respect to its activities licensed under this chapter or the department, or induces or fails to promptly report to the department any known fraud or fraudulent practices on the part of any applicant for a license under this chapter.

(d) Whenever the licensee represents himself or herself as an agent or employee of the department or uses advertising designed to create the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or whenever the licensee advertises in any manner or means, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(e) Whenever the licensee or any employee or agent of the licensee solicits traffic violator school instruction in an office of the department or within 200 feet of any office of the department, or in any court of law.

(f) Whenever the licensee is convicted of violating Section 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or Section 192 of the Penal Code. A conviction after a plea or nolo contendere shall be deemed to be a conviction within the meaning of this section.

(g) Whenever the licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. The department, in proceeding pursuant to this subdivision, shall conform its procedures to the provisions of Division 1.5 (commencing with Section 475) of the Business and Professions Code. Whenever disability or unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation of a license issued pursuant to this chapter, the referee, hearing officer, or board hearing the matter shall make a specific finding as to the manner in which the action or conduct manifests disability or unfitness, and the finding shall be incorporated in the order suspending or revoking the license.

(h) Whenever a traffic violator school owner teaches or permits an employee to teach traffic safety instruction without a valid instructor's license.

(j) Whenever a traffic violator school owner does not have in effect a bond as provided in paragraph (4) of subdivision (a) of Section 11202 or a deposit in lieu of the bond, as specified in Section 11203.

11216. The department may cancel any license issued under the provisions of this chapter if the license was issued in error or has been voluntarily surrendered to the department for cancellation. Whenever any license is canceled, it shall be without prejudice and shall be surrendered to the department. Any person whose license has been canceled may immediately apply for a license.

11217. (a) Every licensee under this chapter is entitled to notice and hearing prior to suspension or revocation of the license by the department, except that the department shall immediately suspend the license pursuant to subdivision (e) for any act of fraud specified in subdivision (c) or (d) of Section 11215.

(b) Before reinstatement of any license suspended pursuant to

subdivision (a) of Section 11215, the licensee shall pay to the department a reinstatement fee of five dollars ($5).

(c) The notice and hearings provided for in this division shall be pursuant to, and governed by, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Any action of the department in suspending, canceling, revoking, or failing to renew a license issued pursuant to this chapter may be reviewed by any court of competent jurisdiction.

(e) The department may, pending a hearing, temporarily suspend the license or permit of any traffic violator school owner, or instructor for a period not to exceed 30 days if the director finds that the public interest so requires. In that case, a hearing shall be held and a decision thereon issued within 30 days after issuance of the notice of temporary suspension.

(f) The suspension, expiration, or cancellation of a license issued pursuant to this chapter shall not prevent the filing of an accusation for the revocation or suspension of the suspended, expired, or canceled license, and shall not invalidate or otherwise preclude a decision by the department that the license should be suspended or revoked, and this determination may be considered by the department in granting or refusing to grant any subsequent license under this chapter to the same licensee, or to any partner, officer, director, or stockholder of the same licensee.

11218. (a) Following the filing of an accusation against a licensee under this chapter and prior to conducting a hearing pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the director may impose a stipulated penalty if the licensee agrees to accept the terms and conditions of the penalty without hearing or appeal by any party thereto. The stipulated penalty may include a period of probation.

(b) Each compromise settlement agreement effected pursuant to subdivision (a) shall be signed by the respondent licensee, the director, and any person upon whose request the disciplinary proceedings were commenced, or by their authorized representatives, and filed with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation upon which the disciplinary action was initiated if the agreement is effected before the hearing.

(c) Failure of the respondent to fully comply with the terms and conditions of a compromise agreement effected under this section shall render the agreement null and void. The department may thereafter reinstitute the charges and the disciplinary proceedings, notwithstanding the agreement.

11219. The director may prescribe rules and regulations for traffic violator schools regarding the conduct of courses of education including curriculum, facilities, and equipment. The director may also prescribe rules and regulations for the conduct of instructor training courses.

11220. The department may require any person licensed under

this chapter to submit to a reexamination of his or her qualifications when there is reasonable cause to believe that the licensee does not have the ability to give instruction. If the licensee refuses or fails to submit to the reexamination, the department may, without a hearing, temporarily suspend his or her license until such time as the licensee submits to the reexamination. The suspension shall be effective upon receipt of notice by the licensee.

11221. Whenever the department cancels, suspends, or revokes the license of a traffic violator school owner or instructor, the licensee or other person in possession shall immediately return the license certificate and any other evidence of licensing to the department.

11222. The department may contract with a nongovernmental entity to administer any part or parts of this chapter. No contract shall exceed three years' duration. The contracting entity shall conform to all of the following requirements:

(a) Engage in no other business activity with traffic violator schools or any of the principals of the traffic violator schools, including the provision of services or supplies.

(b) Provide reports in statistical form to the department and to the Legislature as instructed by the department. These reports shall be issued not less frequently than annually.

(c) Make its records available for inspection by authorized representatives of the department, the Legislative Analyst, and the Auditor General.

SEC. 5. Section 42005 of the Vehicle Code is amended to read:

42005. (a) In lieu of adjudicating a traffic offense, and with this consent of the defendant, the court may order any person issued a notice to appear for a traffic violation to attend a school for traffic violators licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 or a driving school licensed pursuant to Chapter 1 (commencing with Section 11100) of Division 5 for instruction in the operation of a motor vehicle consistent with the provisions of this code. Except as otherwise provided in subdivision (b), any person so ordered may choose the school for traffic violators or licensed driving school the person will attend. Any person who willfully fails to comply with the order is guilty of a misdemeanor.

(b) In those counties where prior to January 1, 1985, one or more individual courts, or the county acting on behalf of one or more individual courts, contracted for the provision of instructional services to traffic violators referred by the court pursuant to a pretrial diversion program, the courts may restrict referrals under this section to those schools for traffic violators or licensed driving schools which are under contract with the court or with the county to provide instructional services for persons referred pursuant to subdivision (a). Counties subject to this subdivision or individual courts within the county may contract with an independent administrator to administer contracts with schools for traffic violators and licensed driving schools to provide instruction for persons

referred pursuant to this section.

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

CHAPTER 1038

An act to amend and renumber Sections 25280, 25281, 25282, 25283, 25283.1, 25283.2, 25283.3, 25283.4, 25283.5, 25283.6, 25284, 25284.1, 25284.2, 25284.3, 25284.4, 25284.5, 25285, 25286, 25287, 25288, 25288.1, 25288.2, 25288.3, and 25289 of, and to add Sections 25280 and 25299.6 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 11, 1984.]

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

SECTION 1. Section 25280 is added to the Health and Safety Code, to read:

25280. (a) The Legislature finds and declares as follows:

(1) Substances hazardous to the public health and safety and to the environment are stored prior to use or disposal in thousands of underground locations in the state.

(2) Underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of the ground and underlying aquifers, and may pose other dangers to public health and the environment.

(3) In several known cases, underground storage has resulted in undetected and uncontrolled releases of hazardous substances into the ground. These releases have contaminated public drinking water supplies and created a potential threat to the public health and to the waters of the state.

(4) The Legislature has previously enacted laws regulating the management of hazardous wastes, including statutes providing the means to clean up releases of hazardous substances into the environment when the public health, domestic livestock, wildlife, and the environment are endangered. Current laws do not specifically govern the construction, maintenance, testing, and use of underground tanks used for the storage of hazardous substances, or the short-term storage of hazardous wastes prior to disposal, for the purposes of protecting the public health and the environment.

(5) The protection of the public from releases of hazardous

substances is an issue of statewide concern.

(b) The Legislature therefore declares that it is in the public interest to establish a continuing program for the purpose of preventing contamination from, and improper storage of, hazardous substances stored underground. It is the intent of the Legislature, in enacting this chapter, to establish orderly procedures that will ensure that newly constructed underground storage tanks meet appropriate standards and that existing tanks be properly maintained, inspected, and tested so that the health, property, and resources of the people of the state will be protected.

SEC. 2. Section 25280 of the Health and Safety Code is amended and renumbered to read:

25281. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board. "Regional board" means a California Regional Water Quality Control Board.

(b) "Department" means the State Department of Health Services.

(c) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(d) "Hazardous substance" means all of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

(1) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.

(2) Hazardous substances, as defined in Section 25316.

(3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(e) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25283.

(f) "Operator" means the operator of an underground storage tank.

(g) "Owner" means the owner of an underground storage tank.

(h) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, or association. "Person" also includes any city, county, district, the state, any department or agency thereof, or the United States, to the extent authorized by federal law.

(i) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

(j) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on

its inner surface with the hazardous substance being contained.

(k) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(*l*) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(m) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials are considered single-walled.

(n) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.

(o) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(p) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.

(q) "Unauthorized release" means any release or emission of any hazardous substance which does not conform to this chapter, unless this release is authorized by the board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(r) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the county agricultural commissioner if the county agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 25291, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 25292, if the tank was installed on or before June 30, 1984.

(2) A tank which is located on a farm and stores motor vehicle fuel which is used only to propel vehicles used primarily for agricultural purposes.

(3) A tank which holds 1,100 gallons or less, is located at a residence of a person. and stores home heating fuel used exclusively for personal and nonincome producing purposes.

(4) A tank which is used for aviation or motor vehicle fuel, which tank is located within one mile of a farm and used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code. who is primarily involved in agricultural pest control activities.

(5) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25291 or 25292 are not exempted by this section. Structures identified in this paragraph may be regulated by the board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

SEC. 3. Section 25281 of the Health and Safety Code is amended and renumbered to read:

25282. (a) The department shall compile a comprehensive master list of hazardous substances. The master list shall be made available to the public and mailed to each local agency no later than June 30, 1984, notwithstanding any other provision of law, including Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Local agencies and owners or operators of underground storage tanks shall use the master list or, when adopted, the revised list adopted pursuant to subdivision (b), to determine which underground storage tanks require permits pursuant to this chapter. Hazardous substances included on the list may be denominated by scientific, common, trade, or brand names.

(b) The department may revise, when appropriate, the master list of all the hazardous substances specified in subdivision (a). The revised list of hazardous substances shall be prepared and adopted, and may be further revised, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 25282 of the Health and Safety Code is amended and renumbered to read:

25283. Every county shall implement this chapter pursuant to the regulations adopted by the board. A city may, by ordinance, assume responsibility for the implementation of this chapter pursuant to the regulations adopted by the board and, if so, shall have exclusive jurisdiction within the boundary of the city for the purposes of carrying out this chapter. A city which assumes responsibility for implementation of this chapter shall provide notice of its program and consult with the county in which the city is located. A county shall designate a department, office, or other agency of that county as the local agency responsible for administering and enforcing this chapter, and a city which assumes responsibility for implementing

this chapter shall also make a similar designation.

SEC. 5. Section 25283 of the Health and Safety Code is amended and renumbered to read:

25284. (a) Except as provided in subdivision (c), no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner.

(b) Each local agency shall prepare a form which provides for the acceptance of the obligations of a transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency within 30 days after the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (a) of Section 25295, upon receiving the completed form.

(c) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days after the date of assumption of ownership to apply for an operating permit pursuant to Section 25286 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (a). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

(d) When, in its judgment, it is appropriate to do so, the local agency may issue a single permit to a person for a facility.

SEC. 6. Section 25283.1 of the Health and Safety Code is amended and renumbered to read:

25285. A permit to operate issued by the local agency pursuant to Section 25284 shall be effective for five years. A local agency shall not issue or renew a permit to operate an underground storage tank if the local agency inspects the tank and determines that the tank does not comply with this chapter.

SEC. 7. Section 25283.2 of the Health and Safety Code is amended and renumbered to read:

25286. (a) An application for a permit to operate an underground storage tank, or for renewal of the permit, shall be made, by the owner, on a standardized form prepared by the board and provided by the local agency and shall be accompanied by the appropriate fee, as specified in Section 25287. The local agency shall provide the board with a copy of the completed application.

(b) The board shall store this information on a computer for the purpose of managing and appropriately cross-referencing and indexing this data. The application form shall include, but not be limited to, requests for the following information:

(1) A description of the construction of the underground storage tank or tanks.

(2) A list of all the hazardous substances which are or will be stored in the underground storage tank or tanks, specifying the hazardous substances for each underground storage tank.

(3) A description of the monitoring program for the underground storage tank or tanks.

(4) The name and address of the person, firm, or corporation which owns the underground storage tank or tanks and, if different, the name and address of the person who operates the underground storage tank or tanks.

(5) The address of the facility at which the underground storage tank or tanks are located.

(6) The name of the person making the application.

(7) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility.

(8) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section, or office which operates the tank.

(c) As a condition of any permit to operate an underground storage tank, the permittee shall complete an annual report form, prepared by the board, which will detail any changes in the usage of any underground storage tanks, including the storage of new hazardous substances, changes in monitoring procedure, and unauthorized release occurrences, as defined in Sections 25294 and 25295. The requirements for computer storage and management of the data generated by the application forms specified in subdivision (b) also apply to information generated by the annual reports.

(d) If a permittee stores in an underground storage tank or tanks a hazardous substance which is not listed in the application, as required by paragraph (2) of subdivision (b), the permittee shall apply for a new or amended permit within 30 days after commencing the storage of that hazardous substance.

SEC. 8. Section 25283.3 of the Health and Safety Code is amended and renumbered to read:

25287. (a) A fee shall be paid to the local agency by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The governing body of the county, or a city which assumes enforcement jurisdiction, shall establish the amount of the fees at a level sufficient to pay the necessary and reasonable costs incurred in administering this chapter, including, but not limited to, permitting and inspection responsibilities. The governing body may provide for the waiver of fees when a public agency makes an application for a permit to operate or an application to renew a permit.

(b) This fee shall include a surcharge, the amount of which shall be determined by the Legislature annually to cover the costs of the board in carrying out its responsibilities under this chapter. The surcharge shall be transmitted to the board and deposited in the Underground Storage Tank Fund hereby created in the General Fund. The money in this account is available, upon appropriation by

the Legislature, to the board for the purposes of implementing this chapter.

SEC. 9. Section 25283.4 of the Health and Safety Code is amended and renumbered to read:

25288. (a) The local agency shall inspect every underground storage tank within its jurisdiction at least once every three years. The purpose of the inspection is to determine whether the tank complies with the design and construction standards of Section 25291 or 25292, whichever is applicable, whether the operator has monitored and tested the tank as required by the permit, and whether the tank is in a safe operating condition. After an inspection, the local agency shall prepare a compliance report detailing the inspection and shall send a copy of this report to the permitholder.

(b) In addition to, or instead of, the inspections specified in subdivision (a), the local agency may require the permitholder to employ, periodically, special inspectors to conduct an audit or assessment of the permitholder's facility to determine whether the facility complies with the factors specified in subdivision (a) and to prepare a special inspection report with recommendations concerning the safe storage of hazardous materials at the facility. The report shall contain recommendations consistent with this chapter, where appropriate. A copy of the report shall be filed with the local agency at the same time the inspector submits the report to the permitholder. Within 30 days after receiving this report, the permitholder shall file with the local agency a plan to implement all recommendations contained in the report or shall demonstrate, to the satisfaction of the local agency, why these recommendations should not be implemented.

SEC. 10. Section 25283.5 of the Health and Safety Code is amended and renumbered to read:

25289. In order to carry out the purposes of this chapter, any duly authorized representative of the local agency or the board has the authority specified in Section 25185, with respect to any place where underground storage tanks are located, and in Section 25185.5, with respect to real property which is within 2,000 feet of any place where underground storage tanks are located.

SEC. 11. Section 25283.6 of the Health and Safety Code is amended and renumbered to read:

25290. (a) "Trade secrets," as used in this chapter, includes, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The board or a local agency may disclose trade secrets received by the board or the local agency pursuant to this chapter

to authorized representatives or other governmental agencies only in connection with the board's or local agency's responsibilities pursuant to this chapter. The board and the local agency shall establish procedures to ensure that these trade secrets are utilized only in connection with these responsibilities and are not otherwise disseminated without the consent of the person who provided the information to the board or the local agency.

(c) Any person providing information pursuant to Section 25286 shall, at the time of its submission, identify all information which the person believes is a trade secret. Any information or record not identified as a trade secret is available to the public, unless exempted from disclosure by other provisions of law.

(d) Where the local agency, by ordinance, provides an alternative to the listing of a substance which is a trade secret, the person storing that substance shall provide the identification of the material directly to the board pursuant to this section.

SEC. 12. Section 25284 of the Health and Safety Code is amended and renumbered to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in them in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing, for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 25-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment.

(7) The design and construction of underground storage tanks for motor vehicle fuels need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in

conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system is designed to provide early leak detection and response and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (3) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (3) of subdivision (b) of Section 25292 shall also be deemed to meet the requirements of this subdivision, provided that the tank meets the conditions of subparagraphs (A) to (D), inclusive.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous material stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this paragraph.

(d) If different substances are stored in the same tank and, in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, then they shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

SEC. 13. Section 25284.1 of the Health and Safety Code is amended and renumbered to read:

25292. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances, the following actions shall be taken:

(a) On or before July 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision

(a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Pressure testing, vacuum testing, or hydrostatic testing of the piping systems or underground storage tanks.

(2) A groundwater monitoring well or wells which are down gradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well.

(3) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if inventory records are kept on file for one year and are reviewed quarterly, the tank is tested for tightness hydrostatically or, when appropriate with pressure between three and five pounds, inclusive, per square inch at time intervals specified by the board, and any pressurized system has a leak detection device to monitor for leaks in the piping. The tank shall also be tested for tightness hydrostatically or where appropriate, with pressure between three and five pounds, inclusive, per square inch whenever there is a shortage greater than the amount which the board shall specify by regulation.

(c) The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells, and the sampling frequency, pursuant to these regulations.

SEC. 14. Section 25284.2 of the Health and Safety Code is amended and renumbered to read:

25293. The operator of the underground storage facility shall monitor the facility using the method specified on the permit for the facility. Records shall be kept in sufficient detail to enable the local agency to determine that the operator has undertaken all monitoring activities required by the permit to operate.

If the operator is not the owner, the owner shall provide a copy of the permit to the operator, enter into a written contract with the operator which requires the operator to monitor the tank as set forth in the permit, and provide the operator with a copy of Section 25299, or a summary of this section, in the form which the board specifies by regulation. The owner shall notify the local agency of any change of operator.

SEC. 15. Section 25284.3 of the Health and Safety Code is amended and renumbered to read:

25294. Any unauthorized release from the primary containment which the operator is able to clean up within eight hours after the release was detected or should reasonably have been detected, and which does not escape from the secondary containment, does not increase the hazard of fire or explosion, and does not cause any deterioration of the secondary containment of the underground

storage tank, shall be recorded on the operator's monitoring reports.

SEC. 16. Section 25284.4 of the Health and Safety Code is amended and renumbered to read:

25295. (a) Any unauthorized release which escapes from the secondary containment, or from the primary containment, if no secondary containment exists, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground tank shall be reported by the operator to the local agency within 24 hours after the release has been detected or should have been detected. A full written report shall be transmitted by the owner or operator of the underground storage tanks within five working days of the occurrence of the release.

The local agency shall review the permit whenever there has been an unauthorized release or when it determines that the underground storage tank is unsafe. In determining whether to modify or terminate the permit, the local agency shall consider the age of the tank, the methods of containment, the methods of monitoring, the feasibility of any required repairs, the concentration of the hazardous substances stored in the tank, the severity of potential unauthorized releases, and the suitability of any other long-term preventive measures which would meet the requirements of this chapter.

(b) In cooperation with the Office of Emergency Services, the board shall submit an annual statewide report by county, to the Legislature, of all unauthorized releases, indicating for each unauthorized release the operator, the hazardous substance, the quantity of the unauthorized release, and the actions taken to abate the problem.

(c) The reporting requirements imposed by this section are in addition to any requirements which may be imposed by Sections 13271 and 13272 of the Water Code.

SEC. 17. Section 25284.5 of the Health and Safety Code is amended and renumbered to read:

25296. If there has been any unauthorized release, as defined in Section 25294 or subdivision (a) of Section 25295, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may repair the tank once by an interior-coating process if the tank meets all of the following requirements:

(a) An ultrasonic test, or comparable test, has been conducted to determine the thickness of the storage tank. If the result of the test indicates that a serious corrosion problem exists with regard to the tank, as determined by the person conducting the test, the local agency may require additional corrosion protection for the tank or may deny the authorization to repair.

(b) A hydrostatic test is an alternative to the ultrasonic test in subdivision (a). If the result of the test indicates that a serious problem exists with regard to the integrity of the tank, as determined by the person conducting the test or the local agency, the local agency may require additional protection for the tank or may deny

authorization for the repair.

(c) Following the repair, a vacuum test has been conducted with a result indexed at not more than 5.3 inches of mercury. This requirement shall not be applicable if technology is not available for testing the tank onsite using accepted engineering practices.

(d) Following the repair, the standard installation testing for requirements for underground storage tanks specified in Section 2-7.3 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association on November 20, 1981 (NFPA 30-1981), and published in the 1982 edition of the National Fire Code shall be followed.

(e) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the board by regulation.

(f) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices such as the American Petroleum Institute's recommended practice No. 1631 for the interior lining of existing underground storage tanks.

(g) The board may develop regulations, in consultation with the State Fire Marshal, for the repair of underground storage tanks, and the standards in this section shall remain in effect until the adoption of these regulations.

SEC. 18. Section 25285 of the Health and Safety Code is amended and renumbered to read:

25297. The local agency may request the following agencies to utilize that agency's authority to remedy the effects of, and remove, any hazardous substance which has been released from an underground storage tank:

(a) The department which may take action pursuant to Chapter 6.8 (commencing with Section 25300) and, for this purpose, any unauthorized release shall be deemed a release as defined in Section 25320.

(b) A regional water quality control board may take action pursuant to Division 7 (commencing with Section 13000) of the Water Code and, for this purpose, the discharged hazardous substance shall be deemed a waste as defined in subdivision (d) of Section 13050.

SEC. 19. Section 25286 of the Health and Safety Code is amended and renumbered to read:

25298. (a) No person shall abandon an underground storage tank or close or temporarily cease operating an underground storage tank, except as provided in this section.

(b) An underground storage tank which is temporarily taken out of service, but which the operator intends to return to use, shall continue to be subject to all the permit, inspection, and monitoring requirements of this chapter, unless the operator complies with subdivision (c) for the period of time the underground tank is not in use.

(c) No person shall close an underground storage tank unless the person undertakes all of the following actions:

(1) Demonstrates to the local agency that all residual amounts of the hazardous substance or hazardous substances which were stored in the tank prior to its closure have been removed, properly disposed of, and neutralized.

(2) Adequately seals the tank to minimize any threat to the public safety and the possibility of water intrusion into, or runoff from, the tank.

(3) Provides for, and carries out, the maintenance of the tank as the local agency determines is necessary for the period of time the local agency requires.

(4) Demonstrates to the local agency that there has been no significant soil contamination resulting from a discharge in the area surrounding the underground storage tank or facility.

SEC. 20. Section 25287 of the Health and Safety Code is amended and renumbered to read:

25299. (a) Any operator of an underground storage tank is liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Operates an underground storage tank which has not been issued a permit.

(2) Fails to monitor the underground storage tank, as required by the permit.

(3) Fails to maintain records, as required by Section 25286.

(4) Fails to report an unauthorized release, as required by Sections 25294 and 25295.

(5) Fails to properly close an underground storage tank, as required by Section 25298.

(b) Any owner of an underground storage tank is liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Failure to obtain a permit as specified by this chapter.

(2) Failure to repair an underground tank in accordance with this chapter.

(3) Abandonment or improper closure of any underground tank subject to this chapter.

(4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank.

(c) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

(d) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or

potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

(e) Penalties under this section are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws.

SEC. 21. Section 25288 of the Health and Safety Code is amended and renumbered to read:

25299.1. (a) Any city, county, or city and county which prior to January 1, 1984, has adopted an ordinance which, at a minimum meets the requirements set forth in Section 25291 and 25292, providing for double containment and monitoring of underground storage tanks, and under which permits are issued therefor, is exempt from the provisions of this chapter so long as the ordinance, as it may be amended, continues to meet the requirements of Sections 25291 and 25292.

Those local agencies which are exempt from this chapter pursuant to this subdivision shall submit to the board the application form, the surcharge specified in subdivision (b) of Section 25287, and annual information specified by Section 25286, and shall submit a written report of any unauthorized release from an underground storage tank to the Office of Emergency Services within 10 working days from the time the local agency is notified of the unauthorized release. Every local agency exempted from this chapter, except a county of the fifth class and the cities within that county, shall, until January 1, 1990, collect and transmit to the board the surcharge specified in subdivision (b) of Section 25287.

(b) This chapter shall not be construed to limit or abridge the authority of any city, county, or city and county to adopt an ordinance requiring information, investigations, or inspections, or implementing and enforcing this chapter.

SEC. 22. Section 25288.1 of the Health and Safety Code is amended and renumbered to read:

25299.2. The Legislature hereby finds and declares that the provisions of this chapter are of statewide interest and concern and are intended to preempt any local regulations of underground storage tanks, which regulations are for the protection of the soil from contamination or the protection of the beneficial uses of waters of the state, and which conflict with these provisions, except as provided in Section 25299.1.

SEC. 23. Section 25288.2 of the Health and Safety Code is amended and renumbered to read:

25299.3. (a) The board shall develop regulations implementing the standards of Sections 25291, 25292, 25294, 25295, 25296, 25298, and 25299.4. These regulations shall be promulgated by the board by January 1, 1985. The board may adopt regulations implementing Sections 25286, 25287, and 25290, as it deems necessary.

(b) Until the board adopts regulations, any city, county, or city

and county may implement the requirements of Section 25291 with regard to permits. Any underground storage tank or facility so permitted shall be deemed to be in compliance with the regulations of the board implementing that section. Any such tank installed within a city, county, or city and county which has not implemented Section 25291 prior to the adoption of regulations by the board shall be subject to the same requirements of this chapter as an underground storage tank installed prior to January 1, 1984.

SEC. 24. Section 25288.3 of the Health and Safety Code is amended and renumbered to read:

25299.4. (a) Any permitholder or permit applicant may apply to the board for a categorical variance from Section 25291 or 25292. A categorical variance is an alternative procedure which would be applicable to more than one local agency jurisdiction.

(1) The application shall include a description of the proposed alternative program, method, device, or process and a description of the region, area, or circumstances under which the variance would apply.

(2) The board shall give notice to all affected cities, counties, and city and counties.

(3) The board shall issue a categorical variance from these sections if it determines, after investigation and at least two public hearings held in different areas of the state, as selected by the board, that the applicant has demonstrated by clear and convincing evidence that the proposed alternative will adequately protect the soil and the beneficial uses of water of the state from an unauthorized release. Any variance so issued shall prescribe the conditions the applicant is required to maintain and shall describe the alternative.

(4) The board shall modify or revoke a categorical variance upon a finding that the proposed alternative does not adequately protect the soil and the beneficial uses of water of the state from an unauthorized release.

(5) The board may remand the application to the appropriate regional board if it determines that the application falls within subdivision (c).

(6) The board may charge and collect from the applicant a fee sufficient to recover the reasonable costs of proceeding under this section.

(b) After January 1, 1984, any local agency may apply to the board for authority to implement design and construction standards for the containment of a hazardous substance in underground storage tanks which are in addition to those set forth in this chapter. The application shall include a description of the additional standards and a discussion of the need to implement them. The board shall approve the application if it finds, after an investigation and public hearing, that the local agency has demonstrated by clear and convincing evidence that the additional standards are necessary to adequately protect the soil and the beneficial uses of the waters of the state from unauthorized releases.

The board shall make its determination within six months of the date of application for authority to implement additional standards. If the board's determination upholds the application for authority to implement additional standards, the standards shall be effective as of the date of the determination. If the board's determination does not uphold the application, the additional standards shall not go into effect.

(c) Any permitholder or permit applicant may apply to the regional board having jurisdiction over the location of the permitholder or applicant's facility for a site-specific variance from Section 25291 or 25292. A site-specific variance is an alternative procedure which is applicable in one local agency jurisdiction. Prior to applying to the regional board, the permitholder shall first contact the local agency pursuant to paragraph (4).

(1) The regional board shall hold a public hearing 60 days after the completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(2) The regional board shall consider the local agency's and the city, county, or city and county's recommendations in rendering its decision. Failure of the local agency or city, county, or city and county to join in the variance application pursuant to paragraph (4) shall not affect the request of the applicant to proceed with the variance application.

(3) The regional board shall approve the variance if it finds, after investigation and public hearing, that the applicant has demonstrated by clear and convincing evidence either of the following:

(A) Because of the facility's special circumstances, not generally applicable to other facilities' property, including size, shape, design, topography, location, or surroundings, the strict application of Sections 25291 and 25292 is unnecessary to adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(B) Strict application of the standards of Sections 25291 and 25292 would create practical difficulties not generally applicable to other facilities or property and that the proposed alternative will adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(4) Before applying for a variance, the applicant shall contact the local agency to determine if a site-specific variance is required. If the local agency determines that a site-specific variance is required or does not act within 60 days, the applicant may proceed with the variance procedure in subdivision (a).

(5) At least 30 days before applying to the appropriate regional board, the applicant shall notify and request the city, county, or city and county to join the applicant in the variance application before the regional board.

(A) The city, county, or city and county shall provide notice of the

receipt of that request to any person who has requested the notice.

(B) The local agency within the city, county, or city and county which has the jurisdiction for land use decisions shall have 30 days from completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to act on the applicant's request to join the applicant.

(d) Applicants requesting a variance pursuant to this section shall pay a fee determined by the board to be necessary to recover the reasonable cost of administering this section.

SEC. 25. Section 25289 of the Health and Safety Code is amended and renumbered to read:

25299.5. This chapter shall not be construed to limit or abridge the powers and duties granted to the State Department of Health Services by Chapter 6.5 (commencing with Section 25100) and Chapter 6.8 (commencing with Section 25300) or to the State Water Resources Control Board and each regional water quality control board by Division 7 (commencing with Section 13000) of the Water Code.

SEC. 26. Section 25299.6 is added to the Health and Safety Code, to read:

25299.6. The board shall conduct a study which analyzes the necessity of applying the standards of Sections 25291 and 25292 to the structures exempted by paragraph (4) of subdivision (r) of Section 25281. The board shall complete the study by July 1, 1985. After completing the study, the board shall review existing regulatory authority over these structures.

SEC. 27. If both this bill and Assembly Bill 3781 are enacted and become effective on January 1, 1985, and each bill amends Sections 25284, 25284.1, and 25284.5 of the Health and Safety Code, Sections 12, 13, and 17 of this bill shall not become operative.

SEC. 28. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 29. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1039

An act to amend Sections 65751, 65753, 65754, 65755, 65756, and 65760 of, to add Sections 65750, 65758, 65762, and 65763 to, and to repeal Sections 65750 and 65758 of, the Government Code, relating to housing.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 65750 of the Government Code is repealed.

SEC. 2. Section 65750 is added to the Government Code, to read:

65750. As used in this article, unless the context requires otherwise:

(a) "Petition" includes any form of pleading brought pursuant to Section 65751, whether it is a petition, complaint, cross-complaint, complaint in intervention, or any other form.

(b) "Petitioner" includes a petitioner, plaintiff, cross-complainant, or intervenor who files an action of any kind pursuant to Section 65751.

SEC. 3. Section 65751 of the Government Code is amended to read:

65751. Any action to challenge a general plan or any element thereof on the grounds that such plan or element does not substantially comply with the requirements of Article 5 (commencing with Section 65300) shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 4. Section 65753 of the Government Code is amended to read:

65753. (a) The petitioner shall request a hearing or trial on the alternative writ or peremptory writ of mandate, and any other party may request a hearing or trial, within 90 days of the date the petitioner files the petition for a writ of mandate pursuant to Section 65751. If no request for a hearing or trial is filed within 90 days of the date that petition is filed, the action or proceeding may be set for hearing or trial or dismissed on the motion of any party other than the petitioner or may be dismissed on the court's own motion.

(b) Within 30 days of the filing of the request for a hearing or trial pursuant to subdivision (a), the court shall set a date for a hearing or trial on the action or part of an action brought pursuant to Section 65751. The hearing or trial shall be set to be heard at the earliest possible date that the business of the court permits, but not more than 120 days after the filing of a request for hearing under this section. The court may continue for a reasonable time the date of the hearing or trial upon written motion and a finding of good cause. However, if the court grants a continuance to a respondent, it shall, upon the written motion of the petitioner and upon the petitioner

meeting the requirements of Section 65757, grant the relief provided in Section 65757 as temporary relief but shall not enjoin any housing developments which comply with applicable provisions of law and which may be developed without having an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

SEC. 5. Section 65754 of the Government Code is amended to read:

65754. In any action brought to challenge the validity of the general plan of any city, county, or city and county, or any mandatory element thereof, if the court, in a final judgment in favor of the plaintiff or petitioner, finds that the general plan or any mandatory element of the general plan does not substantially comply with the requirements of Article 5 (commencing with Section 65300):

(a) The city, county, or city and county shall bring its general plan or relevant mandatory element or elements thereof into compliance with the requirements of Article 5 (commencing with Section 65300) within 120 days.

Notwithstanding the provisions of subdivision (b) of Section 65585, the planning agency of the city, county, or city and county shall submit a draft of its revised housing element or housing element amendment at least 45 days prior to its adoption to the Department of Housing and Community Development for its review, notifying the department that the element is subject to the review procedure set forth in this section.

The department shall review the draft element or amendment and report its findings to the planning agency within 45 days of receipt of the draft. The legislative body shall consider the department's findings prior to final adoption of the housing element or amendment if the department's findings are reported to the planning agency within 45 days after the department receives that draft element or amendment.

(b) The city or county, including the chartered cities specified in subdivision (d) of Section 65860, shall, in accordance with Section 65860, bring its zoning ordinance into consistency with its general plan or relevant mandatory element or elements thereof within 120 days after the general plan has been amended in accordance with subdivision (a).

SEC. 6. Section 65755 of the Government Code is amended to read:

65755. (a) The court shall include, in the order or judgment rendered pursuant to Section 65754, one or more of the following provisions for any or all types or classes of developments or any or all geographic segments of the city, county, or city and county until the city, county, or city and county has substantially complied with the requirements of Article 5 (commencing with Section 65300):

(1) Suspend the authority of the city, county, or city and county pursuant to Division 13 (commencing with Section 17910) of the Health and Safety Code, to issue building permits, or any category

of building permits, and all other related permits, except that the city, county, or city and county shall continue to function as an enforcement agency for review of permit applications for appropriate codes and standards compliance, prior to the issuance of building permits and other related permits for residential housing for that city, county, or city and county.

(2) Suspend the authority of the city, county, or city and county, pursuant to Chapter 4 (commencing with Section 65800) to grant any and all categories of zoning changes, variances, or both.

(3) Suspend the authority of the city, county, or city and county, pursuant to Division 2 (commencing with Section 66410), to grant subdivision map approvals for any and all categories of subdivision map approvals.

(4) Mandate the approval of all applications for building permits, or other related construction permits, for residential housing where a final subdivision map, parcel map, or plot plan has been approved for the project, where the approval will not impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element, and where the permit application conforms to all code requirements and other applicable provisions of law except those zoning laws held to be invalid by the final court order, and changes to the zoning ordinances adopted after such final court order which were enacted for the purpose of preventing the construction of a specific residential development.

(5) Mandate the approval of any or all final subdivision maps for residential housing projects which have previously received a tentative map approval from the city, county, or city and county pursuant to Division 2 (commencing with Section 66410) when the final map conforms to the approved tentative map, the tentative map has not expired, and where approval will not impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element.

(6) Mandate that notwithstanding the provisions of Sections 66473.5 and 66474, any tentative subdivision map for a residential housing project shall be approved if all of the following requirements are met:

(A) The approval of the map will not significantly impair the ability of the city, county, or city and county to adopt and implement those elements or portions thereof of the general plan which have been held to be inadequate.

(B) The map complies with all of the provisions of Division 2 (commencing with Section 66410), except those parts which would require disapproval of the project due to the inadequacy of the general plan.

(C) The approval of the map will not affect the ability of the city, county, or city and county to adopt and implement an adequate housing element.

(D) The map is consistent with the portions of the general plan not found inadequate and the proposed revisions, if applicable, to the

part of the plan held inadequate.

(b) Any order or judgment of a court which includes the remedies described in paragraphs (1), (2), or (3) of subdivision (a) shall exclude from the operation of that order or judgment any action, program, or project required by law to be consistent with a general or specific plan if the court finds that the approval or undertaking of the action, program, or project complies with both of the following requirements:

(1) That it will not significantly impair the ability of the city, county, or city and county to adopt or amend all or part of the applicable plan as may be necessary to make the plan substantially comply with the requirements of Article 5 (commencing with Section 65300) in the case of a general plan, or Article 8 (commencing with Section 65450) in the case of a specific plan.

(2) That it is consistent with those portions of the plan challenged in the action or proceeding and found by the court to substantially comply with applicable provisions of law.

The party seeking exclusion from any order or judgment of a court pursuant to this subdivision shall have the burden of showing that the action, program, or project complies with paragraphs (1) and (2).

SEC. 7. Section 65756 of the Government Code is amended to read:

65756. If the court orders a reference of any action brought pursuant to this article or pursuant to any provision of law which grants a court the authority to appoint expert witnesses, monitors, masters, or other third party judicial assistants used in complex litigation, the referee, monitor, master, or third party judicial assistant so appointed shall report their findings to the court within not more than 90 days following that reference.

SEC. 8. Section 65758 of the Government Code is repealed.

SEC. 9. Section 65758 is added to the Government Code, to read:

65758. If the court orders any temporary relief in an action or proceeding subject to this article, any party to the action or proceeding may file with the court a written request that the court make a final determination in the action or proceeding, and the court shall thereafter make a final determination and enter judgment within 180 days of the date the request was filed, unless the party who filed the request files a withdrawal of the request with the court prior to the filing by the court of its memorandum of intended decision.

SEC. 9.5. Section 65760 of the Government Code is amended to read:

65760. In determining whether a housing development will have an impact on the ability of the city, county, or city and county to properly adopt and implement an adequate housing element, the court shall consider all relevant factors. There is a conclusive presumption that any housing development, 25 percent of which units are affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, can be developed without having an impact on the ability of the city,

county, or city and county to properly adopt and implement an adequate housing element, except where the approval of a housing development may prevent the city, county, or city and county from complying with the final judgment of the court.

SEC. 10. Section 65762 is added to the Government Code, to read:

65762. Nothing in this article shall prohibit a court from invalidating any development permit based on failure to comply with the Subdivision Map Act, Division 2 (commencing with Section 66401) of Title 7 of the Government Code, the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, the Planning and Zoning Law, Title 7 (commencing with Section 65000) of the Government Code, or other applicable laws.

The procedures and remedies set forth in this article shall not be construed to affect the substantive standards of court review of a general plan or of other local government land use decisions. The remedies set forth in this article are interim measures which shall have no application after a general plan has been revised to substantially comply with state law.

SEC. 11. Section 65763 is added to the Government Code, to read:

65763. (a) The provisions of this article apply to all actions, proceedings, and causes of action set forth in this article, whether commenced or alleged by the filing of a petition, complaint, cross-complaint, complaint in intervention, or otherwise.

(b) Nothing in this article shall be deemed or construed to create any cause of action in or to confer standing to sue upon any person, entity, public officer, or agency in the State of California, or any other public officer or agency.

SEC. 12. It is the intent of the Legislature that the term "substantial compliance," as used in Article 14 (commencing with Section 65750) of Chapter 3 of Division 1 of Title 7 of the Government Code be given the same interpretation as was given that term by the court in Camp v. Board of Supervisors, 123 Cal. App. 3d 334 at page 348.

CHAPTER 1040

An act to amend Section 155.20 of, and to add Section 214.12 to, the Revenue and Taxation Code, relating to financing government.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 155.20 of the Revenue and Taxation Code is amended to read:

155.20. A county board of supervisors may exempt from property

tax all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5, and personal property with a full value so low that, if not exempt, the total taxes, special assessments and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The board shall have no authority to exempt property with a base year value or full value of more than two thousand dollars ($2,000).

In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of assessing the property and collecting taxes, assessments and subventions on such property exceeds the proceeds to be collected. The board shall establish the exemption level uniformly for classes of property. In making this determination, the board may consider the total taxes, special assessments and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

This section does not apply to those real or personal properties enumerated in Section 52.

The exemption authorized by this section shall be adopted by the board on or before the lien date for the fiscal year to which the exemption is to apply and may, at the option of the board, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board on or before the lien date for the fiscal year to which that revision or rescission is to apply.

Nothing in this section shall authorize a county board of supervisors to exempt new construction of two thousand dollars ($2,000) or less, unless the new base year value of the property, including this new construction, is two thousand dollars ($2,000) or less.

Nothing in this section shall authorize an assessor to exempt or not to enroll any property of any value, unless specifically authorized by a county board of supervisors, pursuant to this section.

SEC. 2. Section 214.12 is added to the Revenue and Taxation Code, to read:

214.12. For years prior to 1983, in counties with a population of less than 5,000 persons, a claimant, which would have qualified for a welfare exemption with respect to taxes on a possessory interest in publicly owned land or on improvements on land owned by another except for a failure to have that interest of record on the lien date in the office of the recorder of the county in which the property is located, shall be granted a welfare exemption with respect to that interest or improvements.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no local agency or school district shall receive reimbursement for any property tax revenues lost pursuant to this act, because the provisions of this act are optional and the exemption provided for in Section 1 of this act is by definition at a level which offsets costs of an equal amount which would otherwise occur.

CHAPTER 1041

An act to add Section 225 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 225 is added to the Food and Agricultural Code, to read:

225. Notwithstanding any other provision of law, on all funds transferred from the Department of Food and Agriculture Fund and the Acala Cotton Fund for any purpose other than to carry out or enforce the law directly relating to the source of those funds, interest shall be paid to the Department of Food and Agriculture Fund or the Acala Cotton Fund which otherwise would have been earned if the funds had not been transferred.

CHAPTER 1042

An act to add Section 14672.94 to the Government Code, and to add Section 2206.1 to the Public Resources Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 14672.94 is added to the Government Code, to read:

14672.94. Notwithstanding Section 14670, the Director of General Services may let to Solano Community College, for a period not to exceed 25 years, for the purpose of establishing a fire science training center, real property located within the grounds of the California Medical Facility in Vacaville.

SEC. 2. Section 2206.1 is added to the Public Resources Code, to read:

2206.1. Notwithstanding Section 14670 of the Government Code, subject to the approval of the Director of General Services, the State Geologist may lease, for a period not to exceed 20 years, collections of ores and minerals of California for the public benefit.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order that the fire science training center authorized by this act commence operating, and the collections of ores and minerals be leased for the public benefit, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1043

An act to amend Sections 4 and 19 of, and to add Section 32.5 to, the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283, Statutes of 1970), relating to harbors.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 4 of Chapter 1283 of the Statutes of 1970 is amended to read:

Sec. 4. A district for the acquisition, construction, maintenance, operation, development, and regulation of harbor works and improvements, including rail, water, and air terminal facilities, for the development, operation, maintenance, control, regulation, and management of Humboldt Bay upon the tidelands and lands lying under the inland navigable waters of Humboldt Bay, for the promotion of national and international commerce, navigation, fisheries, and recreation thereon, and for the development and protection of the natural resources of the area, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

Anything herein to the contrary notwithstanding, the powers and authority granted herein shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

SEC. 2. Section 19 of Chapter 1283 of the Statutes of 1970 is amended to read:

Sec. 19. The board of commissioners shall draft a master plan for harbor and port improvement and for the use of all of the tidelands and submerged lands which shall be conveyed to the district pursuant to the provisions of this act and other lands or areas subject to its jurisdiction. The board may from time to time modify the master plan by a majority vote of the board.

The provisions in the master plan shall not override or supersede any local existing zoning ordinance which was in effect on November 23, 1970; provided, that if any local zoning ordinance is repealed, or expires, or becomes nonoperative for any reason, thereafter the provisions of the master plan adopted by the board shall control as to all lands and waters under the jurisdiction of the district.

The district shall improve the Humboldt Bay Harbor for navigation and commerce through maintenance and construction of channels, shipways, berths, anchorage places, turning basins, breakwaters, bulkheads, wharves, processing plants, warehouses, roads, spur tracks or beltline railways, and any other work that is deemed necessary that would not otherwise be accomplished by other public or private agencies.

The district shall plan, designate, and protect wildlife habitats, establish open space areas and areas provided for recreational use with open access for the public, protect, conserve, supervise, and improve the wildlife and fish resources of, and control and enhance the aesthetic appearance of, the area.

The district shall regulate the use of Humboldt Bay by control of pollution, dredging, and filling within the area subject to its jurisdiction under Section 5.5.

The district shall work closely with the planning agencies of the adjacent corporate bodies in the exercise of those powers and duties.

SEC. 3. Section 32.5 is added to Chapter 1283 of the Statutes of 1970, to read:

Sec. 32.5. (a) The board may establish offices in other states or in foreign countries for the purpose of providing export trade services. The board may also create an export trading company, with offices where it deems appropriate, to promote the maritime and commercial interests of the district.

(b) Notwithstanding any other provision of this act, no moneys in the Humboldt Bay Harbor, Recreation and Conservation District Revenue Fund shall be used to establish, operate, or fund any out-of-state or foreign office or any export trading company, including transportation or warehousing services. However, any tolls, charges, compensation, or fees levied by the district for services provided by an out-of-state or foreign office or by an export trading company, other than for transportation or warehousing services on tide and submerged lands granted to the district, may be used for purposes of those offices or an export trading company.

(c) The district shall submit to the State Controller, at the end of each fiscal year or as soon thereafter as possible, detailed statements of all revenues and expenditures attributable to the operation of each out-of-state or foreign office and each export trading company, if any, for that fiscal year. The statements shall include, but not be limited to, a balance sheet, an income statement, and a statement of sources and applications of funds.

(d) As used in this section, "export trading company" means a person, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or the State of California and which is organized and operated principally for the purpose of facilitating export trade services, including, but not limited to, consulting, international market research, advertising, marketing, assistance to obtain insurance, product research and design, legal

assistance, transportation, including trade documentation and freight forwarding, communication, and processing of foreign orders to and for exporters and foreign purchasers, warehousing, and facilitating foreign exchange and financing. An export trading company established under this section shall not itself make loans or otherwise provide credit, become an insurance carrier, or take title to goods.

CHAPTER 1044

An act to add and repeal Chapter 4.7 (commencing with Section 66260) to Part 40 of the Education Code, relating to postsecondary education.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Chapter 4.7 (commencing with Section 66260) is added to Part 40 of the Education Code, to read:

CHAPTER 4.7. PARKING FOR THE HANDICAPPED

66260. The Regents of the University of California and the Trustees of the California Community Colleges shall provide, and the Board of Governors of the California Community Colleges shall adopt rules and regulations requiring the governing board of each community college district to provide, visitor parking at each campus of the university or district at no charge for a disabled person, as defined by subdivision (a) of Section 22511.5 and subdivision (a) of Section 22511.9 of the Vehicle Code, operating a vehicle which displays a distinguishing license plate or placard, as defined in subdivisions (c) and (d) of Section 22511.9 of the Vehicle Code. Whenever parking designated for a disabled person is provided on any campus of the University of California, the California State University, or a community college district in a facility controlled by a mechanical gate, that university or district shall also provide accommodations for any person whose disability prevents him or her from operating the gate controls. These accommodations may be provided by making arrangements for disabled persons to be assisted in the operation of the gate controls, or through other effective and reasonable means the university or district may devise. Nothing in this section shall be construed to require the replacement or elimination of special parking facilities restricted for the use of disabled persons located on the campuses of these universities or districts.

66261. This chapter shall only be applicable to the University of

California to the extent authorized by Section 9 of Article IX of the California Constitution if approved by an appropriate resolution of the Regents of the University of California.

66262. It is the intent of the Legislature that community college districts shall utilize inflation adjustments provided to community college districts for the 1984–85 fiscal year, and the proceeds from parking fees charged to community college students and employees, to offset costs incurred by these districts in accommodating disabled persons in utilizing parking spaces pursuant to the requirements of this chapter.

66263. This chapter shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered on or after January 1, 1991, deletes or extends that date.

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

CHAPTER 1045

An act to add and repeal Section 25008.5 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 25008.5 is added to the Public Resources Code, to read:

25008.5. (a) The Legislature hereby finds and declares that in order to maximize public benefit from private sector participation in state operations and to maximize the Legislature's ability to devote limited resources of the state to the responsibilities of state government that are less attractive to private sector investment, it is the policy of the state to encourage third-party financing of energy projects, including, but not limited to, cogeneration facilities, at state-owned sites.

(b) The Legislature further finds and declares that the development of energy projects at state-owned sites can be accelerated where reasonable incentives are provided to the siting institutions. These incentives are necessary to offset the long-term administrative, operational, and technical complexities of energy

projects developed under this section. Reasonable incentives for implementing the policy of this section shall include the sharing of benefits derived from energy projects between the state and the siting institution. The benefits to the state and siting institutions derived from projects implemented under this section may include, but are not limited to, annual cash revenues, avoided capital costs, reduced energy costs, site improvements, and additional operations and maintenance resources. The annual cash revenues derived from those projects shall be shared equally between the state and the siting institution, if both of the following conditions are met:

(1) The use of cash and avoided cost benefits by siting institutions is to be limited to improvement of ongoing maintenance, deferred maintenance, cost-effective energy improvements, and other infrastructure improvements. To the extent an institution receives annual cash revenues under this section, the institution shall retain any money it receives, but not to exceed one-half of this amount, in a special deposit fund account, which shall be continuously appropriated to the institution for the purposes of this section. The state's benefit share, and the siting institution's benefit share that exceeds its needs, shall be deposited in the Energy and Resources Fund or, if this fund is not in existence, the General Fund for the purpose of investing in renewable resources programs and energy efficiency improvements at state facilities.

(2) The use of benefits shall be in addition to, and shall not supplant or replace, funding from traditional sources for a siting institution's normal operations and maintenance or capital outlay budgets.

(c) The Legislature further finds and declares that a benefit-sharing incentive is applicable to energy projects reported to, or authorized by, the Legislature pursuant to Section 13304 or 14671.6 of the Government Code. This section shall not apply to energy projects which are constructed on or at facilities or property of the State Water Resources Development System.

(d) Commencing on January 1, 1986, the commission shall submit annual reports to the Legislature on the cost benefit aspects in carrying out this section.

(e) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

CHAPTER 1046

An act to amend Sections 50952 and 51608 of the Health and Safety Code, relating to housing.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 50952 of the Health and Safety Code is amended to read:

50952. The agency shall also seek to attain all of the following objectives:

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families of low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities in lower income households and other lower income households, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Reducing the cost of mortgage financing for rental and cooperative housing to provide lower rent for persons and families of low or moderate income.

(f) Reducing the cost of mortgage financing for home purchase, in order to make homeownership feasible for persons and families of low or moderate income.

(g) Identification of areas of low vacancy rates where construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and maintenance of local economic activity.

(h) A balance between urban metropolitan, nonmetropolitan, and rural metropolitan housing developments, and between family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the California statewide housing plan.

(i) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(j) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income.

(k) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(*l*) Promoting the recovery and growth of economically depressed business located in areas of minority concentration and in mortgage-deficient areas.

(m) Revitalization of deteriorating and deteriorated urban areas by attracting a full range of income groups to central-city areas to provide economic integration with persons and families of low or moderate income in those areas.

(n) Implementation of the goals, policies, and objectives of the California Statewide Housing Plan.

(o) Location of housing in public transit corridors with high levels of service.

(p) Reducing the cost of mortgage financing for rental housing development in order to attract private and pension fund investment in such developments.

(q) Reducing the cost of mortgage financing for second unit rental housing, as defined by Section 65852.2 of the Government Code, in order to make rental housing more affordable for elderly persons and persons and families of low or moderate income.

SEC. 2. Section 51608 of the Health and Safety Code is amended to read:

51608. "Insurance reserve requirement" means an amount established by the agency, which shall, as of any particular date of computation, be at least equal to the total of (1) insurance benefits due and payable as of such date pursuant to contracts of loan insurance and (2) an amount calculated to equal any required policyholder's surplus which would be required of a mortgage guaranty insurer under Section 12640.05 of the Insurance Code.

CHAPTER 1047

An act to amend Sections 11703, 11707, 12104, and 12105 of, to add Section 11515 to, and to repeal Article 4 (commencing with Section 14091) of Chapter 3 of Division 7 of, the Food and Agricultural Code, relating to economic poisons and making an appropriation therefor.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Article 4 (commencing with Section 14091) of Chapter 3 of Division 7 of the Food and Agricultural Code is repealed.

SEC. 2. Section 11515 is added to the Food and Agricultural Code,

to read:

11515. (a) The director may, by regulation, establish reasonable fees based on recommendations of the Agricultural Pest Control Advisory Committee to cover the costs of administering any written examination administered pursuant to this division. The fees shall not exceed fifteen dollars ($15) per examination.

(b) The regulations shall provide that the examination fee may be charged to applicants who require the director to reschedule an examination due to the applicant's failure to obtain a passing score or failure to appear for the scheduled examination, and for scheduling an examination to amend a license.

(c) The original application fee shall allow the applicant to take the examination for each category applied for in the original application in accordance with the director's examination schedule.

SEC. 3. Section 11703 of the Food and Agricultural Code is amended to read:

11703. (a) Except as otherwise provided in Sections 11704 and 11707, the application shall be accompanied by a fee of twenty-five dollars ($25).

(b) If the applicant maintains any branch office in this state or outside this state and the applicant engages in the agricultural pest control business in this state from that branch office, then the applicant shall pay an additional fee of ten dollars ($10) for each of these branch offices.

SEC. 4. Section 11707 of the Food and Agricultural Code is amended to read:

11707. To any fee which is not paid by the date of expiration, there shall be added a penalty of ten dollars ($10).

SEC. 5. Section 12104 of the Food and Agricultural Code is amended to read:

12104. The license for a pesticide dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee of fifty dollars ($50), for each license and twenty dollars ($20) for each branch, salesyard store, or sales location by the date of expiration.

SEC. 6. Section 12105 of the Food and Agricultural Code is amended to read:

12105. A penalty of ten dollars ($10) shall be added to any fee which is not paid by the date of expiration.

CHAPTER 1048

An act to add Section 580.1 to, and to repeal Section 188.8 of, the Streets and Highways Code, relating to transportation.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 188.8 of the Streets and Highways Code, as amended by Section 1 of Chapter 1349 of the Statutes of 1982, is repealed.

SEC. 2. Section 580.1 is added to the Streets and Highways Code, to read:

580.1. The department and the San Francisco Bay Area Rapid Transit District may enter into a joint use agreement which authorizes the district to use without charge a portion of the Route 280 right-of-way from Washington Street in the City of Daly City to the Daly City Station in the City of Daly City for its transit turn back facility.

CHAPTER 1049

An act to add Section 230.7 to the Civil Code, relating to adoption.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 230.7 is added to the Civil Code, to read:

230.7. Notwithstanding any other provision of law, the State Department of Social Services and any licensed adoption agency shall release any letters, photographs, or other items of personal property in their possession to any adoptee, birth parent, or adoptive parent, upon written request. The material may be requested by any of the following parties:

(a) The adoptee, provided that he or she has attained the age of 18 years.

(b) The adoptive parent or parents, on behalf of an adoptee under the age of 18 years, as long as instructions to the contrary have not been made by the depositor.

(c) The birth parent or parents.

Notwithstanding any other provision of law, all identifying names and addresses shall be deleted from the letters, photographs, or items of personal property before delivery to the requester.

Any letters, photographs, or other items of personal property shall be accompanied by a release form or similar document signed by the person depositing the material, specifying to whom the material may be released. At its discretion, the department or licensed adoption agency shall have the right to refuse for deposit items of personal property that, because of value or bulk, would pose storage problems.

The department and licensed adoption agencies may charge a

reasonable fee to cover the actual costs of any services required by this section in excess of normal postadoptive services provided by the department or agency. Additionally, at its discretion, the department or agency may charge a reasonable storage fee at the time the material is deposited or requested to cover the costs of nonroutine storage.

The provisions of this section are applicable only to items of personal property deposited with the department or a licensed adoption agency on or after January 1, 1985.

As used in this section, "photograph" means a photograph of the person depositing the photograph or the person making the request for the release.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1050

An act to add Section 23154 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 23154 is added to the Vehicle Code, to read:

23154. (a) Whenever, in any county specified in subdivision (b), a judge of a juvenile court, a juvenile traffic hearing officer, or referee of a juvenile court finds that a person has committed a first violation of Section 23152 or 23153, the person shall be required to participate in and successfully complete an alcohol or drug education program, or both of those programs, as designated by the court. The expense of the person's attendance in the program shall be paid by the person's parents or guardian so long as the person is under the age of 18 years, and shall be paid by the person thereafter. However, in approving the program, each county shall require the program to provide for the payment of the fee for the program in installments by any person who cannot afford to pay the full fee at the commencement of the program and shall require the program to provide for the waiver of the fee for any person who is indigent, as determined by criteria for indigency established by the board of supervisors. Whenever it can be done without substantial additional cost, each county shall require that the program be provided for juveniles at a separate location from, or at a different time of day

than, alcohol and drug education programs for adults.

(b) This section applies only in those counties that have one or more alcohol or drug education programs certified by the county alcohol program administrator and approved by the board of supervisors.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1051

An act to add Section 27491.44 to the Government Code, and to amend Section 7155.5 of the Health and Safety Code, relating to anatomical gifts.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 27491.44 is added to the Government Code, to read:

27491.44. Notwithstanding any other provision of law, the coroner may do all of the following:

(a) Assist the people of this state, as appropriate, in the implementation of the Uniform Anatomical Gift Act contained in Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, and in the otherwise lawful utilization of medically proven organ and tissue transplant procedures.

(b) Cooperate in the authorized removal and timely disposition of human organs and tissue from the bodies of deceased persons, including victims of homicide, in accordance with law and accepted medical practice.

(c) Assist medical and health service agencies in identifying donors of human organs and tissues, for purposes of providing life-enhancing benefits of transplant surgery to recipients under duly sanctioned medical conditions.

(d) Ask the deceased person's next of kin, at the time of notification of death, whether the deceased was a donor or if the family was a donor family. If not, the coroner is authorized to inform them of their option to donate viable organs and tissues.

SEC. 2. Section 7155.5 of the Health and Safety Code is amended to read:

7155.5. (a) The donee may accept or reject a gift. If the donee accepts a gift of the entire body, the donee may, subject to the terms

of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons specified in Section 7100.

(b) The donee, in order to receive a gift, may act through a licensed physician or trained transplant technician authorized by the donee, or through a licensed embalmer, pursuant to Section 7634 of the Business and Professions Code, who shall remove tissue from a legally dead individual for transplant, therapeutic, or scientific purposes according to an established State Department of Health Services, protocol involved in removal.

(c) The time of death shall be determined by a physician who tends the donor at his or her death, or, if none, the physician or coroner who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(d) No county coroner or medical examiner, nor any authorized agent thereof, shall be liable for damages in any civil action as a result of his or her act or omission relative to procedures undertaken pursuant to this chapter or to anatomical gifts offered under Section 12811 of the Vehicle Code.

(e) Any person who acts in good faith with the terms of this chapter, including acts pursuant to anatomical gifts offered under Section 12811 of the Vehicle Code, shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(f) For purpose of this section, "trained transplant technician" means a person who has completed training in tissue removal for transplant, therapeutic, or scientific purposes, which the donee determines to be adequate for the purpose.

CHAPTER 1052

An act to add Section 12104 to the Financial Code, relating to commercial transactions.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 12104 is added to the Financial Code, to read:

12104. (a) Any money received from a debtor by a nonprofit community service organization exempt from this division pursuant to subdivision (j) of Section 12100, in the performance of an activity described in Section 12002.1, shall be deposited in either an

interest-bearing or noninterest-bearing trust account in a bank, state or federal savings bank, state or federal savings and loan association, or state or federal credit union located in the State of California.

(b) If a nonprofit community service organization establishes an interest-bearing trust account in a financial institution, as set forth in subdivision (a), it shall do so subject to all of the following:

(1) The debtor shall waive in writing all rights to the interest earned on his or her payments.

(2) The rate of interest payable on any interest-bearing trust account shall be not less than the rate paid by the financial institution to its regular depositors.

(3) The financial institution shall pay any interest earned on the average daily balance in the account, less any reasonable service charge, directly to Consumer Credit Counselors of California, a nonprofit corporation the primary purpose of which is consumer credit education, no less frequently than quarterly, and transmit to the nonprofit community service organization and Consumer Credit Counselors of California with each payment a statement showing the name of the nonprofit community service organization, the rate of interest applied, the amount of service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

(c) Consumer Credit Counselors of California shall deposit all interest payments received pursuant to subdivision (b) in a separate trust account in a financial institution specified in subdivision (a).

(d) So long as Consumer Credit Counselors of California receives interest payments from financial institutions pursuant to the requirements of this section, it shall not arrange or administer individual debt settlement plans.

(e) All interest paid on an interest-bearing trust account into the separate trust account established by Consumer Credit Counselors of California, subject to reasonable reserve requirements, shall be disbursed by Consumer Credit Counselors of California no less frequently than quarterly. Funds disbursed by Consumer Credit Counselors of California from the separate trust account shall be used for the sole purpose of establishing and maintaining California nonprofit community service organizations whose purpose is consumer credit education and counseling on consumer credit problems and family budgets and who are exempt from this division pursuant to subdivision (j) of Section 12100.

CHAPTER 1053

An act to amend and repeal Sections 4622 and 4626 of the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 4622 of the Welfare and Institutions Code is amended to read:

4622. After July 1, 1978, the state shall contract only with agencies, the governing boards or the program policy committees of which conform to all of the following criteria:

(a) The governing board or the program policy committee shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(b) The membership of the governing board or the program policy committee shall include persons with legal, management, public relations, and developmental disability program skills.

(c) The membership of the governing board or the program policy committee shall include representatives of the various categories of disability to be served by the regional center.

(d) The governing board or the program policy committee shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(e) A minimum of one-third of the members of the governing board or the program policy committee shall be persons with developmental disabilities or their parents or legal guardians.

(f) Members of the governing board or the program policy committee shall not be permitted to serve longer than six consecutive years.

(g) The governing board shall appoint an advisory committee composed of a wide variety of persons representing the various categories of providers from which the regional center purchases client services. The advisory committee shall provide advice, guidance, recommendations, and technical assistance to the regional center board in order to assist the regional center in carrying out its mandated functions. The advisory committee shall designate one of its members to serve as a member of the regional center board.

(h) No member of the board or the program policy committee who is an employee or member of the governing board of a provider from which the regional center purchases client services shall do any of the following:

(1) Serve as an officer of the board or program policy committee.

(2) Vote on any fiscal matter affecting the purchase of services from any regional center provider.

(3) Vote on any issue other than as described in paragraph (2), in which the member has a financial interest, as defined in Section 87103 of the Government Code, and determined by the regional center board or program policy committee. The member shall provide a list of his or her financial interests, as defined in Section 87103, to the regional center board or program policy committee.

Nothing in this section shall prevent the appointment to a regional center governing board or the program policy committee of a person who meets the criteria for more than one of the categories listed above.

This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 4622 of the Welfare and Institutions Code, as added by Section 550 of Chapter 1252 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

Section 4626 of the Welfare and Institutions Code is amended to read:

4626. (a) In order to prevent potential conflicts of interest, no member of the governing board or member of the program policy committee of a regional center shall be any of the following:

(1) An employee of the State Department of Developmental Services or any state or local agency which provides services to a regional center client, if employed in a capacity which includes administrative or policymaking responsibility, or responsibility for the regulation of the regional center.

(2) An employee or a member of the state council or an area board.

(3) Except as otherwise provided in subdivision (h) of Section 4622, an employee or member of the governing board of any entity from which the regional center purchases client services.

(4) Any person who has a financial interest, as defined in Section 87103 of the Government Code, in regional center operations, except as a consumer of regional center services.

(b) Notwithstanding paragraph (1) of subdivision (a), members serving on the governing board or program policy committee of a regional center on January 1, 1982, may continue to serve on the board or committee until the expiration of their term as defined in subdivision (f) of Section 4622. Notwithstanding any other provision of this section, members serving on the governing board or program policy committee of a regional center on January 1, 1982, may continue to serve on the board or committee until the expiration of their current term. Changes in the composition of the board or committee required by amendments to this section that are operative on January 1, 1982, shall apply only to subsequent vacancies on the board or committee.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 4626 of the Welfare and Institutions Code, as amended by Section 168 of Chapter 101 of the Statutes of 1983, shall have the same force and

effect as if this temporary provision had not been enacted.

CHAPTER 1054

An act to amend Section 52301 of the Education Code, relating to vocational education.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 52301 of the Education Code is amended to read:

52301. (a) The county superintendent of schools of each county, with the consent of the State Board of Education, may establish and maintain, or with one or more counties may establish and maintain, at least one regional occupational center, or regional occupational program, in the county to provide education and training in vocational courses. The governing boards of any school districts maintaining high schools in the county may, with the consent of the State Board of Education and of the county superintendent of schools, cooperate in the establishment and maintenance of a regional occupational center or program, except that if such a school district also maintains 500 or more schools, its governing board may establish and maintain one or more regional occupational centers or programs, without those restrictions. A regional occupational center or program may be established by two or more school districts maintaining high schools through the use of the staff and facilities of a community college or community colleges serving the same geographic area as the school districts maintaining the high schools, with the consent of the State Board of Education and the county superintendent of schools.

The establishment and maintenance of a regional occupational center or program, by two or more school districts may be undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. In such a regional occupational center or program, the functions of the county auditor undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall be performed by the county superintendent of schools in a county in which the board of supervisors has transferred educational functions from the county auditor to the county superintendent of schools pursuant to Sections 42649, as added by Chapter 533 of the Statutes of 1977, and 85265.5. If a school district or school districts establish and maintain such a regional occupational center or program, pursuant to this chapter, the county superintendent of schools may, with the consent of the State Board

of Education, establish and maintain a separate regional occupational center or centers or program or programs.

(b) Notwithstanding other provisions of this section, a single school district located in a class 1 county, as defined in Section 1205, and having an average daily attendance of 50,000 or more, or a single school district located in a class 2 county, as defined in Section 1206, and having an average daily attendance of 100,000 or more, may apply to the State Board of Education through the county superintendent of schools for permission to establish a regional occupational center or program. Except as provided in subdivision (c), the State Board of Education shall, within 90 days of receipt of an application, prescribe a procedure whereby the district may establish a center or program in accordance with its application and in compliance with the provisions of the State Plan for Vocational Education. The county superintendent of schools may supervise establishment of the center or program.

(c) The State Board of Education may disapprove a waiver application submitted by a single school district pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 for permission to establish a regional occupational center or program which does not meet the requirements of this section if the board determines that the establishment of the center or program would have an adverse effect upon existing regional occupational centers or programs located in school districts which are contiguous to the applicant school district.

The State Board of Education shall establish criteria to measure adverse effect. The criteria shall include, but not be limited to, hardship on (1) districts operating regional occupational centers or programs which are contiguous to the applicant district and (2) students of districts operating regional occupational centers or programs which are contiguous to the applicant district.

(d) Notwithstanding any other provision of law, any regional occupational center or program operated by a single district under provisions of Section 33050 shall be granted permanent status if the single district has previously been granted two waivers from the State Board of Education to operate a single district regional occupational center or program and the single district maintains at least three but not more than five comprehensive high schools within the district. The revenue limit for a regional occupational center or program established under this subdivision shall be either the lower of: (1) the revenue limit under which the center or program operates as of January 1, 1985, or (2) the district's revenue limit as of January 1, 1985, except that this revenue limit shall be subject to annual percentage cost-of-living adjustments provided for regional occupational centers and programs. The governing board of the school district shall retain authority to decide whether or not to operate the regional occupational center or program under this subdivision.

CHAPTER 1055

An act to amend Section 25191.7 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 25191.7 of the Health and Safety Code is amended to read:

25191.7. (a) Any person who provides information which materially contributes to the imposition of a civil penalty against any person for violating subdivision (a), (b), or (c) of Section 25189, shall be paid a reward by the department pursuant to regulations adopted by the department under subdivision (g), equal to 10 percent of the amount of the civil penalty collected by the department pursuant to subdivision (a), (b), or (c) of Section 25189 and deposited in the Hazardous Waste Control Account pursuant to Section 25192. No reward paid pursuant to this subdivision shall exceed five thousand dollars ($5,000).

(b) Any person who provides information which materially contributes to the conviction of a person for violating the provisions of subdivision (a), (b), or (c) of Section 25191 shall be paid a reward by the county pursuant to regulations adopted by the department under subdivision (g), equal to 10 percent of the amount of the fine collected pursuant to subdivision (a), (b), or (c) of Section 25191 and deposited in the county treasury pursuant to Section 1463 of the Penal Code. No reward paid pursuant to this subdivision shall exceed five thousand dollars ($5,000).

(c) No informant shall be eligible for a reward for a violation known to the department, unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

(d) If there is more than one informant for a single violation, the first notification received by the department shall be eligible for the reward. If the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

(e) Public officers and employees of the United States, the State of California, or counties and cities in California, shall not be eligible for the reward pursuant to subdivision (a) or (b), unless reporting those violations does not relate in any manner to their responsibilities as public officers or employees.

(f) An informant who is an employee of a business and who provides information that the business violated Section 25189 or 25191 is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and

regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

(g) On or before July 1, 1982, the department shall adopt regulations which establish procedures for the receipt and review of claims for payment of rewards and for the determination of the material contribution by the information furnished to the imposition of civil or criminal penalties for a violation specified in this section. In each case brought under subdivision (a), the department shall determine whether the information materially contributes to the imposition of civil or criminal penalties for violations specified in this section. In each case brought under subdivision (b), the county shall determine whether the information materially contributes to the imposition of civil or criminal penalties for violations specified in this section.

(h) On or before April 1, 1982, and continuing thereafter, the department shall publicize the availability of the rewards pursuant to this section for persons who provide information pursuant to subdivision (a) or (b).

(i) Claims may be submitted only for those referrals made on or after January 1, 1982.

CHAPTER 1056

An act to amend Section 3 of Chapter 380 of the Statutes of 1959, relating to health.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. The Legislature intends in enacting this statute to solve any ambiguities that may exist in provisions for dissolving the San Joaquin Local Health District, to allow the County of San Joaquin and the district to negotiate terms and conditions upon dissolution of the district, and to require the district prior to any dissolution to transfer its property to the County of San Joaquin so that the county may continue the services that the district provides.

SEC. 2. Section 3 of Chapter 380 of the Statutes of 1959 is amended to read:

Sec. 3. Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code is repealed.

Notwithstanding such repeal, the organization, existence, or powers of any district created by, or organized pursuant to, the provisions of such Chapter 6, except for Article 8 (commencing with Section 967), shall remain unaffected by such repeal, and any such district shall continue to exist and may exercise any of the powers conferred upon it by that chapter, except for Article 8 (commencing

with Section 967). This section does not continue in existence Article 8 (commencing with Section 967). No district shall be created or organized pursuant to that chapter after October 1, 1959.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code as the provisions of that chapter existed at the time of their repeal, the district board of any district created by, or organized pursuant to, such provisions, which has continued to exist thereunder shall consist of nine members.

One member shall be appointed from each city in the district, by the governing body of the city, and the remaining members shall be appointed by the board of supervisors from the unincorporated territory in the district at large.

The first additional members appointed to a district board under this section shall classify themselves by lot so that the terms of office of one-half of such members shall expire at the same time as the terms of office of incumbent members which first expire following the date of such appointments, and the terms of office of the other one-half shall expire at the same time as the terms of office of the other incumbent members. The terms of office of their successors shall be the same as for other members appointed to the district board.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, annexation of territory, incorporated or unincorporated, lying adjacent and contiguous to a district, and dissolution of a district, shall be undertaken pursuant to the provisions of the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6 of the Government Code). Prior to any dissolution of a district, the district shall transfer its real and personal property to the County of San Joaquin which shall assume the district's responsibilities.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, the tax for a district shall in no case exceed the rate of twenty-five cents ($0.25) on each one hundred dollars ($100) of assessed valuation of all taxable property within the district.

If the district board presents a budget that necessitates a tax rate in excess of fifteen cents ($0.15) on each one hundred dollars ($100) of the assessed valuation, the budget shall not be effective unless and until it is approved by the county board of supervisors.

Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, an air pollution control district may contract with a local health district in the same county in which the air pollution control district is functioning and exercising its powers, and such a local health

district may contract with such an air pollution control district, for the enforcement by the local health district of the orders, rules, and regulations of the air pollution control district, and the providing by the local health district of services to the air pollution control district.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1057

An act to add Section 2061 to the Unemployment Insurance Code, relating to public employment offices.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 2061 is added to the Unemployment Insurance Code, to read:

2061. It is the intent of the Legislature in adopting this section to ensure that job order information registered with the Job Service of the Employment Development Department be shared as expeditiously and thoroughly as possible between the department's field offices within the same labor-market area.

The Legislature finds that job order sharing will result in better service to employers and more efficient service to job seekers.

(a) All department offices within a common labor-market area shall share job listing information. Each automated on-line order sharing network of offices shall constititute a common labor market. In areas which are not automated, a common labor market means all of the following:

(1) All offices within a city.

(2) All offices within 25 miles of each other within a county.

(3) All offices with adjoining administrative boundaries across which substantial commuting is practiced and other pertinent circumstances exist.

(b) In areas which are automated, the department shall share all job order information, except for casual labor, immediately upon receipt of the job order. In areas which are not automated, the department shall share all job orders with insufficient referral activity within 24 hours of receipt of the job order. "Insufficient referral activity" means fewer referrals than the number requested by the employer, or fewer than the number that would normally be referred for the occupation when the employer expresses no

limitation. Under no circumstances shall a job order be held for longer than three days.

(c) Each public employment field office shall display signs for job seekers to review which indicate what area is served by the office, what information is available about job listings in areas served by other offices with which job orders are shared, and how to request information about jobs in areas not served by the office.

(d) The provisions of this section shall be subject to the limitations of federal budgetary constraints.

CHAPTER 1058

An act to add Section 1256.7 to the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 1256.7 is added to the Unemployment Insurance Code, to read:

1256.7. An individual shall be deemed to have left his or her most recent work with good cause if the director finds that he or she leaves employment because of sexual harassment, provided the individual has taken reasonable steps to preserve the working relationship. No steps shall be required if the director finds it would have been futile. For purposes of this subdivision, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature constitutes sexual harassment when any of the following occur:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting the individual.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Findings of fact and law by the director shall not collaterally estop adjudication of the issue of sexual harassment in another forum.

CHAPTER 1059

An act to amend Sections 54774 and 54774.3 of, and to add Section 54790.4 to, the Government Code, relating to local agency formation commissions.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 54774 of the Government Code is amended to read:

54774. Among the purposes of a local agency formation commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local governmental agencies based upon local conditions and circumstances. One of the objects of the local agency formation commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for the present and future needs of each county and its communities.

In addition to its other powers, the local agency formation commission shall initiate and make studies of existing governmental agencies. Such studies shall include but shall not be limited to inventorying such agencies and determining their maximum service area and service capacities. In conducting such studies, the commission may ask for land use information, studies, and plans of cities, counties, districts, including school districts, and regional agencies and state agencies and departments. Cities, counties, districts, including school districts, regional agencies, and state agencies and departments, shall comply with the request of the commission for such information and the commission shall make its studies available to public agencies and any interested person. In making these studies, the commission may cooperate with the county planning commissions.

In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the local agency formation commission shall develop and determine the sphere of influence of each local governmental agency within the county. As used in this section, "sphere of influence" means a plan for the probable ultimate physical boundaries and service area of a local governmental agency. In determining the sphere of influence of each local governmental agency, the commission shall consider, and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Upon determination of a sphere of influence, the commission shall adopt such sphere, and shall periodically review and update the adopted sphere.

The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for such recommendations. Such recommendations shall be made available, upon request, to other governmental agencies or to the public.

The commission, or the board of supervisors on behalf of the commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state or federal government or from a local government.

SEC. 2. Section 54774.3 of the Government Code is amended to read:

54774.3. (a) The commission shall develop, determine, and adopt the sphere of influence for each local governmental agency within its jurisdiction which provides facilities or services related to development no later than January 1, 1985. The commission shall develop, determine, and adopt the sphere of influence for all other local governmental agencies within its jurisdiction no later than June 30, 1985.

(b) Until January 1, 1985, a commission which has not adopted a sphere of influence for a local governmental agency which provides facilities or services related to development may review, approve, conditionally approve, or disapprove a proposal which includes territory which might be contained within the sphere of such local agency. Until June 30, 1985, a commission which has not adopted a sphere of influence for other local governmental agencies may review, approve, conditionally approve, or disapprove proposals which include territory which might be contained within the sphere of influence of these local agencies. Until January 1, 1985, when acting on a proposal pursuant to this subdivision the commission shall prepare a written statement of determinations with respect to the existence of agricultural preserves in the area which could be considered within an agency's sphere of influence and the effect on maintaining the physical and economic integrity of such preserves in the event that such preserves are within a sphere of influence of a local governmental agency. If the proposal would result in the conversion of prime agricultural land to nonagricultural use, the

commission shall make written determinations explaining the reasons for its decision.

On and after January 1, 1985, a commission shall not approve or conditionally approve any proposal which would result in the conversion of agricultural land to nonagricultural use if the commission has not adopted a sphere of influence for each local governmental agency which might, as determined by the commission, include the subject territory in its sphere of influence and which provides facilities or services related to development.

(c) "Facilities or services related to development," as used in this section, means public works or service programs related to sewers, nonagricultural water, streets and roads, flood control, drainage, and structural fire protection.

SEC. 3. Section 54790.4 is added to the Government Code, to read:

54790.4. Every determination made by a commission regarding the matters provided for by subdivisions (a), (g), and (h) of Section 54790 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

SEC. 4. In enacting this act, it is the intent of the Legislature to set June 30, 1985, as the final deadline for local agency formation commissions to adopt the sphere of influence for each local governmental agency within its jurisdiction. The Legislature does not intend to grant any further extensions beyond this deadline.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1060

An act to add and repeal Section 11580.27 of the Insurance Code, relating to insurance.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 11580.27 is added to the Insurance Code, to read:

11580.27. (a) An offer of coverage required to be made pursuant to Section 11580.26 may be made by mailing, delivering, or providing to a named insured or applicant for insurance an offer for such coverage substantially in the form set forth in subdivision (b), contained either in the application for insurance or in a separate writing.

Proof of mailing, delivery, or providing of the offer to a named insured or applicant for insurance shall establish that the insurer has made the offer required by this section and Section 11580.26.

Proof of mailing may be shown by proof that the offer was deposited in the U.S. mail, postage prepaid, addressed to a named insured or applicant for insurance at the address shown on the policy or application.

(b) "The California Insurance Code requires insurers to offer coverage for damage to the insured motor vehicle, to the extent that you are legally entitled to recover from the owner or operator of the uninsured motor vehicle, caused by an uninsured motor vehicle, that either:

(1) Pays the collision deductible on the insured motor vehicle when you have purchased collision coverage.

(2) Pays for the damage to the insured motor vehicle when you have not purchased collision coverage.

Payment shall not include damage to personal property or loss of use of a motor vehicle and shall not exceed the smaller of any of the following:

(A) The amount of the collision deductible.

(B) The actual cash value of the insured motor vehicle.

(C) $3,500.

You may reject such coverage completely or reject such coverage when an insured motor vehicle is operated by a natural person or persons designated by name."

The offer may contain additional statements not in derogation of, or in conflict with, the foregoing.

(c) This section shall become operative on July 1, 1985.

(d) This section shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. The provisions of this act shall not affect the validity of any outstanding agreement or rejection of an offer made pursuant to the provisions of Section 11580.26 of the Insurance Code prior to the effective date of this act.

CHAPTER 1061

An act to amend Sections 70047, 70113, 73344, 73346, 73348, and 74924.6 of the Government Code, relating to courts.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 70047 of the Government Code is amended to read:

70047. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan as established by joint action and approval of the board of supervisors and a majority of the judges of the court. The step of entry shall be step one. However, the judges of the court may appoint any such reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, but in no case may the initial salary be above the third step of the salary range. Official reporters shall advance to the next higher step on the salary plan annually, upon affirmative approval of the appointing authority. The compensation of each official reporter pro tempore shall be at a rate which is the equivalent of the daily wage of the second step in the salary range for full-time official reporters in Contra Costa County for each day such reporter is on duty under order of the court.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer clerk, and clerk (experienced level), and shall be effective on the same date.

(d) In addition to any fee otherwise required, in civil trials that last longer than one judicial day, a fee equal to the per diem rate for official reporters pro tempore shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(e) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily

transcript shall pay a fee equal to the per diem rate for official reporters pro tempore for each of service rendered by the second reporter, for the first and each successive day of trial.

(f) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the second and each succeeding day's court session.

(g) The fees shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. Such fee is not subject to Section 6103.

SEC. 2. Section 70113 of the Government Code is amended to read:

70113. Regular official reporters may, at the election of each regular official reporter, be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the county to each regular official reporter up to a maximum of thirty thousand dollars ($30,000) per year.

Each regular official reporter performing services for the county on the effective date of this legislation shall make an election whether or not to remain in the Tulare County Retirement Association within 60 days after the effective date of this legislation. Thereafter, each new regular official reporter shall make an election within 60 days of his or her appointment as a regular official reporter. The election shall be an irrevocable decision not subject to later withdrawal, change, or modification.

SEC. 3. Section 73344 of the Government Code is amended to read:

73344. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive as compensation a fee which shall be the equivalent of the daily wage of the second step in the salary range for full-time official reporters in Contra Costa County as provided for by Section 73348 for each day such reporter is on duty under order of the court.

SEC. 4. Section 73346 of the Government Code is amended to read:

73346. (a) Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive, which shall be paid from the county treasury.

(b) A reporter's fee of eighteen dollars ($18) shall be collected for the court reporter fund, in all applicable situations mentioned in

Sections 68090.5, 72055, and 72056, to be paid by each party, or jointly by parties appearing jointly, only once in each such situation in each action or proceeding, and to be otherwise treated and applied as therein provided.

(c) In addition to any fee otherwise required, in civil trials that last longer than one judicial day, a fee equal to the per diem rate for official reporters pro tempore shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(d) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee equal to the per diem rate for official reporters pro tempore for each day of service rendered by the second reporter, for the first and each successive day of trial.

(e) All parties shall deposit their pro rata share of such fees with a clerk at the beginning of the second and each succeeding day's court session.

(f) The fees shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court. Such fee is not subject to Section 6103.

SEC. 5. Section 73348 of the Government Code is amended to read:

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1. Twenty-six thousand eight hundred eight dollars ($26,808).

Step 2. Twenty-eight thousand one hundred fifty-two dollars ($28,152).

Step 3. Twenty-nine thousand five hundred fifty-six dollars ($29,556).

Step 4. Thirty-one thousand thirty-two dollars ($31,032).

Step 5. Thirty-two thousand five hundred eighty dollars ($32,580).

The step of entry to the above schedule shall be Step 1. However, the judges of the court may appoint any such court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, and if such higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. Official reporters shall advance to the next higher step on the salary plan annually. The compensation of each official reporter pro tempore shall be at a rate which is the equivalent of the daily wage of the second step in the salary range for full-time official reporters in Contra Costa County for each day such reporter actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and clerk (experienced level). Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate specified in subdivision (a) for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 6. Section 74924.6 of the Government Code is amended to read:

74924.6. (a) Notwithstanding Section 72194, each judge of the municipal court districts in the County of Tulare may appoint a competent phonographic reporter, to be known as a regular official reporter of the court, and such pro tempore reporters as necessary to report the proceedings of the court. Regular official reporters shall hold office during the pleasure of the appointing judge. The duties of regular official reporters appointed pursuant to this section shall be performed as elsewhere provided by law.

(b) The fee for official court reporters for reporting proceedings shall be ninety dollars ($90) a day. All other fees of these reporters shall be as elsewhere provided by law. Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the municipal courts for the days the pro tempore reporter actually is on duty under order of the court. Regular official reporters and pro tempore reporters shall not receive more than one per diem fee a day from the county. Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January of the second year following the year in which the adjustments are made, unless ratified by the Legislature.

(c) Regular official reporters may, at the election of each regular official reporter, be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and

transcription fees paid by the county to each regular official reporter up to a maximum of thirty thousand dollars ($30,000) per year. Each regular official reporter performing services for the county on the effective date of this legislation shall make an election whether or not to remain in the Tulare County Retirement Association within 60 days after the effective date of this legislation. Thereafter, each new regular official reporter shall make an election within 60 days of his or her appointment as a regular official reporter. The election shall be an irrevocable decision not subject to later withdrawal, change, or modification.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1062

An act to amend Section 65978 of the Government Code, relating to school districts.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 65978 of the Government Code is amended to read:

65978. Any school district receiving funds pursuant to this chapter shall maintain a separate account for any fees paid and shall file a report with the city council or board of supervisors on the balance in the account at the end of the previous fiscal year; the facilities leased, purchased, or constructed; and the dedication of land during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. The report shall be filed by October 15 of each year and shall be filed more frequently at the request of the board of supervisors or city council.

The board of supervisors or city council may approve a 30-day extension for the filing of the report in the case of extenuating circumstances, as determined by the board of supervisors or city council.

During the time that the report has not been filed in the manner prescribed in this section, there shall be a waiver of any performance of the payment of fees or the dedication of land.

If overcrowding conditions no longer exist, the city or county shall

cease levying any fee or requiring the dedication of any land pursuant to this chapter.

CHAPTER 1063

An act to add Section 1802.2 to the Insurance Code, relating to bail.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 1802.2 is added to the Insurance Code, to read:

1802.2. Any bail licensee who has purchased or succeeded to the bona fide business of another bail licensee shall be entitled to use a true or fictitious name used by his predecessor if the predecessor has conducted the business for a period of two consecutive years or more.

CHAPTER 1064

An act to amend Section 14998.2 of the Government Code, relating to state government.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 14998.2 of the Government Code is amended to read:

14998.2. There is in the state government the Motion Picture Council consisting of 21 members. The Governor shall appoint 13 members, the Senate Rules Committee shall appoint four members and the Speaker of the Assembly shall appoint four members. The members of the council appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries. The Motion Picture Council shall work to encourage motion picture and television filming in California and shall exercise the powers provided in this section of the code and elsewhere in the Government Code. In addition to other duties provided by law, the Motion Picture Council shall also make recommendations to the Department of Economic and Business Development and the agencies of state government on legislative or administrative actions

that may be necessary or helpful to maintain and improve the position of the state's motion picture industry in the national and world market.

One of the members appointed by the Senate Rules Committee shall, and another one may, be a Senator, and one of the members appointed by the Speaker shall, and another one may, be a member of the Assembly. Such persons shall be appointed for terms of four years.

Any legislator appointed shall serve as a voting member of the council, but shall only serve in that capacity for the duration of the term of office to which he or she was elected. Any appointee other than a legislator shall serve at the pleasure of the appointing authority for a term of two years from the date of appointment.

Six of the 13 members appointed by the Governor shall be as follows:

(a) One shall be a person who is a member or employee of a union or guild of motion picture artists.

(b) One shall be a person who is a member or employee of a union or guild representing motion picture craftsmen, technicians, or photographers.

(c) Two shall be from major motion picture studios.

(d) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(e) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

CHAPTER 1065

An act to add Sections 20605.1 and 21252.61 to the Government Code, relating to the Public Employees' Retirement Law.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 20605.1 is added to the Government Code, to read:

20605.1. For each local safety member subject to Section 21252.61, effective on the operative date of this section, or later date of entrance into this system as such a member, the normal rate of contribution shall be 7 percent of compensation.

The normal rate of contribution as established under this section for a local safety member whose service is included in the federal system and whose retirement allowance is reduced pursuant to Section 21252.61 because of such inclusion shall be reduced by

one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service rendered after the date of execution of the modification of the federal-state agreement including such services in the federal system and prior to termination of his coverage under the federal system.

The operative date of this section with respect to a local safety member shall be the date upon which the local safety member becomes subject to Section 21252.61.

SEC. 2. Section 21252.61 is added to the Government Code, to read:

21252.61. The combined prior and current service pension for local safety members with respect to service to a contracting agency subject to this section, upon retirement after attaining 56 years of age, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity which is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year in the following table, multiplied by the number of years of service credited to him or her as a local safety member subject to this section at retirement.

Upon retirement for service prior to attaining 56 years of age, the percentage of final compensation payable for each year of credited service which is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for the actual age at retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	.8565
50¼	.8650
50½	.8740
50¾	.8830
51	.8920
51¼	.9020
51½	.9120
51¾	.9222
52	.9330
52¼	.9410
52½	.9490
52¾	.9570
53	.9650
53¼	.9675
53½	.9700
53¾	.9725
54	.9750
54¼	.9810
54½	.9870

54¾	.9935
55	1.0000
55¼	1.0435
55½	1.0870
55¾	1.1310
56	1.1750

This section shall apply only to local peace officers and county peace officers who are local safety members.

This section shall not apply to persons whose effective date of retirement is prior to the operative date of this section.

The Legislature reserves, with respect to any member subject to this section, the right to provide for such adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

The percentage of final compensation provided in this section shall be reduced by one-third as applied to that part of the member's final compensation which does not exceed four hundred dollars ($400) per month for service after the effective date of coverage of a member under the federal system. This paragraph shall not apply to a member who retires after the date upon which coverage under the federal system of persons in his or her employment terminates.

In no event shall the total pension for all service under this section exceed an amount which, when added to the service retirement annuity related to the service, equals 75 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed the maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to the employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

This section shall only apply as an optional contributory retirement formula for Public Employees' Retirement System local safety groups whose group participated in Federal Old Age and Survivors' Insurance provisions of the Social Security Act on April 1983.

This section shall not apply to a contracting agency nor its employees unless and until the agency and representative employee organization agree by memorandum of understanding to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts. It shall also be required that the representative employee organizations agree to be subject to this provision.

The operative date of this section with respect to a local safety member shall be the effective date of the amendment to the employer's contract electing to be subject to this section.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxa-

tion Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1066

An act to amend Sections 3800, 3807, 3822, 3822.2, and 3823 of the Public Resources Code, relating to geothermal revenues, and making an appropriation therefor.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 3800 of the Public Resources Code is amended to read:

3800. The purpose of this chapter is to provide for the allocation of revenues distributed to the state pursuant to Section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States Bureau of Land Management, the United States Forest Service, and other federal agencies undertaken pursuant to the Geothermal Steam Act of 1970 (Chapter 23 (commencing with Section 1001) of Title 30 of the United States Code) in order to accomplish the following general objectives:

(a) Reduction of dependence on fossil fuels and stimulation of the state's economy through development of geothermal resources.

(b) Mitigation of the adverse social, economic, and environmental impacts caused by geothermal development.

(c) Financial assistance to cities, counties, and districts to offset the costs of providing public services and facilities necessitated by the development of geothermal resources within their jurisdictions.

(d) Maintenance of the productivity of renewable resources through the investment of the proceeds of a depleting resource.

SEC. 2. Section 3807 of the Public Resources Code is amended to read:

3807. "Local jurisdiction" means any unit of Indian government, any city, county, or district, including, but not limited to, a regional planning agency and a public utility district, or any combination thereof formed for the joint exercise of any power, except that "public utility district" does not include any public utility district which generates for sale more than 50 megawatts gross of electricity.

SEC. 3. Section 3822 of the Public Resources Code is amended to read:

3822. (a) Thirty percent of the revenues received and deposited

in the Geothermal Resources Development Account shall be available for expenditure by the State Energy Resources Conservation and Development Commission as grants or loans to local jurisdictions without regard to fiscal years. These revenues shall be held by the State Energy Resources Development and Conservation Commission in a Local Government Geothermal Resources Revolving Subaccount, which is hereby created within the Geothermal Resources Development Account. Loan repayments shall be deposited in the subaccount and shall be used for making additional grants and loans pursuant to Section 3823.

(b) No local jurisdiction shall be eligible to apply for a grant or loan pursuant to this section unless its governing body approves the application by resolution.

(c) Each recipient of a grant or loan made pursuant to this section shall establish for deposit of the revenues an account or fund separate from the other accounts and funds of the recipient, and may expend the revenues only for the purposes specified in this chapter.

(d) The State Energy Resources Conservation and Development Commission shall make grants and loans pursuant to this section irrespective of whether a local jurisdiction is a county of origin.

(e) Any of the revenues that are not disbursed as grants or loans pursuant to this section during the fiscal year received shall be retained in the subaccount and may be disbursed as grants or loans pursuant to this section in succeeding fiscal years.

(f) Any loan made under this section shall (1) not exceed 80 percent of the local jurisdiction's costs, (2) bear an interest rate no greater than 8 percent per year, and (3) be repayed together with interest within six years from receipt of the loan funds.

SEC. 4. Section 3822.2 of the Public Resources Code is amended to read:

3822.2. (a) Notwithstanding any other provision of law, the State Energy Resources Conservation and Development Commission may expend funds, from that portion of the Geothermal Resources Development Account used by the commission for grants and loans, to provide direct technical assistance to local jurisdictions which are eligible for grants and loans pursuant to Section 3822.

(b) The total of all amounts expended pursuant to this section shall not exceed 5 percent of all funds available under Section 3822 or one hundred thousand dollars ($100,000), whichever amount is less.

(c) In making expenditures under this section, the commission shall consider, but not be limited to a consideration of, all of the following:

(1) The availability of energy resource and technology opportunities.

(2) The project definition and likelihood of success.

(3) Local needs and potential project benefits.

SEC. 5. Section 3823 of the Public Resources Code is amended to read:

3823. Revenues disbursed to counties of origin pursuant to Section 3821 and grants or loans made to local jurisdictions pursuant to Section 3822 shall be expended by the county or recipient for all of the following purposes:

(a) With respect to any local jurisdiction receiving a grant or loan pursuant to Section 3822, in which development of geothermal resources is contemplated, the revenues shall be expended for the following planning activities:

(1) Resource assessment and exploration technology.

(2) Local and regional planning and policy development and implementation necessary for compliance with programs required by local, state, or federal laws and regulations.

(3) Identification of feasible measures that will mitigate the adverse impacts of the development of geothermal resources and the adoption of ordinances, regulations, and guidelines to implement those measures.

(4) Collecting baseline data and conducting environmental monitoring.

(5) Preparation or revision of geothermal resource elements, or geothermal components of energy elements, for inclusion in the local general plan, zoning and other ordinances, and related planning and environmental documents.

(b) With respect to any local jurisdiction receiving a grant or loan pursuant to Section 3822 in which geothermal resources are being developed or are in production, the revenues shall be expended for all of the following activities:

(1) Administrative costs incurred by the local jurisdiction that are attributable to the development or production of geothermal resources.

(2) Monitoring and inspecting geothermal facilities and related activities to assure compliance with applicable laws, regulations, and ordinances.

(3) Identifying, researching, and implementing feasible measures that will mitigate the adverse impacts of that development or production.

(4) Planning, constructing, providing, operating, and maintaining those public services and facilities that are necessitated by and result from the development or production.

(5) Undertaking projects demonstrating the technical and economic feasibility of geothermal direct heat and electrical generation applications.

(6) Undertaking projects for the enhancement, restoration, or preservation of natural resources, including, but not limited to, water development, water quality improvement, fisheries enhancement, and park and recreation facilities and areas.

CHAPTER 1067

An act to add Section 1373.4 to the Health and Safety Code, and to amend Section 10176 of, and to add Sections 10127.3 and 11512.12 to, the Insurance Code, relating to insurance.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 1373.4 is added to the Health and Safety Code, to read:

1373.4. (a) On and after January 1, 1985, every health care service plan, that is not a health maintenance organization, which provides coverage for hospital, medical, or surgical expenses shall offer coverage to group contract holders for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under such terms and conditions as may be agreed upon between the health care service plan and the group contract holder.

A health care service plan is not required to offer the coverage provided by this section as part of any contract covering employees of a public entity.

(b) For the purposes of this section, "health maintenance organization" or "HMO" means a public or private organization, organized under the laws of this state, which does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage.

(2) Is compensated, except for copayments, for the provision of basic health care services listed in paragraph (1) to enrolled participants on a predetermined periodic rate basis.

(3) Provides physician services primarily directly through physicians who are either employees or partners of the organization, or through arrangements with individual physicians or one or more groups of physicians, organized on a group practice or individual practice basis.

SEC. 2. Section 10127.3 is added to the Insurance Code, to read:

10127.3. On and after January 1, 1985, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under such terms and conditions as may be agreed upon between the group policyholder and the insurer.

An insurer is not required to offer the coverage provided by this section as part of any policy covering employees of a public entity.

SEC. 3. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance, the policy may provide for payment of medical, surgical, chiropractic, physical therapy, speech pathology, audiology, acupuncture, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any such services, and provision may be made therein for payment of all or a portion of the amount of charge for these services without requiring that the insured first pay the expenses. No such policy shall prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Section 1000, 1634, 2135, 2553, 2630, 2948, 3055, or 4938 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, the certificate holder or licensee being expressly authorized by law to perform such services.

If the insured selects any person who is a holder of a certificate under Section 4938 of the Business and Professions Code, a disability insurer or nonprofit hospital service plan shall pay the bona fide claim of an acupuncturist holding a certificate pursuant to Section 4938 of the Business and Professions Code for the treatment of an insured person only if the insured's policy or contract expressly includes acupuncture as a benefit and includes coverage for the injury or illness treated. Unless the policy or contract expressly includes acupuncture as a benefit, no person who is the holder of any license or certificate set forth in this section shall be paid or reimbursed under such policy for acupuncture.

Nor shall any such policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code or any occupational therapist as specified in Section 2570 of the Business and Professions Code, or any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, or from selecting any speech pathologist or audiologist licensed under Section 2530 of the Business and Professions Code or any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform services deemed necessary by the referring physician, such certificate holder, licensee or otherwise regulated person, being expressly authorized by law to perform the services.

Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training, and experience. For the purposes of this section, "marriage, family and child counselor" means a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family, and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981.

SEC. 4. Section 11512.12 is added to the Insurance Code, to read:

11512.12. (a) On and after January 1, 1985, every nonprofit hospital service plan, that is not a health maintenance organization, which covers hospital, medical, or surgical expenses shall offer to group contract holders coverage for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under these terms and conditions as may be agreed upon between the nonprofit hospital service plan and the group contract holder.

A nonprofit hospital service plan is not required to offer the coverge provided by this section as part of any contract covering employees of a public entity.

(b) For the purpose of this section, "health maintenance organization" or "HMO" means a public or private organization, organized under the laws of this state, which does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage.

(2) Is compensated, except for copayments, for the provision of basic health care services listed in paragraph (1) to enrolled participants on a predetermined periodic rate basis.

(3) Provides physician services primarily directly through physicians who are either employees or partners of the organization, or through arrangements with individual physicians or one or more groups of physicians, organized on a group practice or individual practice basis.

SEC. 5. The provisions of this act shall apply to every (a) policy of group disability insurance, (b) health care service plan that is not a health maintenance organization, and (c) nonprofit hospital service plan that is not a health maintenance organization, which is entered into, issued, delivered, or amended in this state on or after January 1, 1985.

CHAPTER 1068

An act to amend Section 322 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 322 of the Vehicle Code is amended to read:

322. A "farm labor vehicle" is any motor vehicle designed, used, or maintained for the transportation of nine or more farmworkers, in addition to the driver, to or from a place of employment or employment-related activities.

For the purpose of this section, a farmworker is any person engaged in rendering personal services for hire and compensation in connection with the production or harvesting of any farm products.

"Farm labor vehicle" does not include:

(1) Any vehicle carrying only members of the immediate family of the owner or driver thereof.

(2) Any vehicle while being operated under specific authority granted by the State Public Utilities Commission or under specific authority granted to a transit system by an authorized city or county agency.

CHAPTER 1069

An act to amend Sections 10502, 10657, and 10901 of, and to add Sections 10502.5 and 10657.5 to, the Fish and Game Code, relating to refuges.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 10502 of the Fish and Game Code is amended to read:

10502. The commission may:

(a) Exercise control over all mammals and birds in any game refuge, and exercise control over all fish in any fish refuge.

(b) Authorize the department to issue, under such restrictions as it may deem best, permits which authorize the person named therein to carry, use, and possess within any refuge, firearms, traps or other contrivances for taking birds, mammals, fish, or amphibia.

(c) Except as provided in Section 10502.5 and 10657, authorize the department to issue permits which shall authorize the person named

therein to take birds, mammals, fish, and amphibia within any refuge.

(d) Make additional regulations not in conflict with any law for the protection of birds, mammals, fish, amphibia, and marine life within any refuge.

SEC. 2. Section 10502.5 is added to the Fish and Game Code, to read:

10502.5. The director may appoint the Director of the Hopkins Marine Life Refuge. The Director of the Hopkins Marine Life Refuge may issue a permit to any person under which the person may enter the Hopkins Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the department determines necessary for the protection and propagation of fish and wildlife and related scientific purposes in that refuge.

SEC. 3. Section 10657 of the Fish and Game Code is amended to read:

10657. (a) A person may be permitted by the Director of the Hopkins Marine Life Refuge to enter the Hopkins Marine Life Refuge under a permit.

(b) The Director of the Hopkins Marine Life Refuge, or any person to whom the Director of the Hopkins Marine Life Refuge has issued a permit under Section 10502.5, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under Section 10502.5.

SEC. 4. Section 10657.5 is added to the Fish and Game Code, to read:

10657.5. Except as expressly provided in this division, it is unlawful to enter the Hopkins Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Hopkins Marine Life Refuge.

Section 10657 and this section do not prohibit or restrict navigation in the Hopkins Marine Life Refuge pursuant to federal law.

SEC. 5. Section 10901 of the Fish and Game Code is amended to read:

10901. That portion of District 16 consisting of the land and ocean waters within the following boundaries constitutes a marine life refuge and shall be designated the Hopkins Marine Life Refuge:

Beginning at the point of intersection of the southeasterly corporate limit line of the City of Pacific Grove prolongated, and the line of highest tide of the Bay of Monterey; thence northwesterly along said line of highest tide to the intersection with the northerly extension of the west side of Third Street in said city; thence northerly to a point in said bay where the depth of water is 60 feet measured from the level of mean low tide; thence southeasterly along the line in said bay which line is at a constant depth of 60 feet measured from the level of mean low tide to the intersection with the southeasterly corporate limit line of said city prolongated; thence S. 58° 57′ 45″ W. along said southeasterly corporate limit line prolongated to the point of beginning.

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

CHAPTER 1070

An act to amend Section 3826 of, and to amend and repeal Section 6217.5 of, the Public Resources Code, relating to state lands, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 3826 of the Public Resources Code is amended to read:

3826. For all lands of the United States which are received by the State Lands Commission as indemnity lands pursuant to Section 851 of Title 43 of the United States Code after July 1, 1980, the revenue received by the state from the leasing of these lands for geothermal development shall be distributed as follows:

(a) Fifty percent of all revenues shall be deposited in the Geothermal Resources Development Account and disbursed pursuant to this chapter.

(b) Fifty percent of all revenues shall be deposited in the Teachers' Retirement Fund and shall be expended pursuant to Section 24702 of the Education Code.

SEC. 2. Section 6217.5 of the Public Resources Code is amended to read:

6217.5. Commencing on July 1, 1984, except for the revenues distributed pursuant to Section 3826, all net revenues, moneys, and remittances from the sale or use of school lands and lieu lands shall be deposited in the State Treasury to the credit of the Teachers' Retirement Fund and shall be expended pursuant to Section 24702 of the Education Code.

SEC. 3. If AB 3105 is enacted and amends Section 6217.5 of the Public Resources Code, Section 2 of this bill shall remain operative only until the effective date of AB 3105, at which time Section 2 of this bill is repealed and Section 6217.5 of the Public Resources Code as amended by AB 3105 shall become operative.

SEC. 4. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The State Lands Commission has filed an indemnity selection application with the United States Bureau of Land Management for the acquisition of 2,838 acres of fee and reserve mineral lands within "The Geysers" in Lake County. These lands, if acquired, have the potential to produce commercial quantities of geothermal steam and thus generate substantial revenues to the state. The Counties of Lake and Sonoma have opposed the state's acquisition pending the reestablishment by the Legislature of funding for the Geothermal Resources Development Account. It is necessary, therefore, that this act take effect immediately.

CHAPTER 1071

An act to add Section 831.25 to the Government Code, relating to public liability.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 831.25 is added to the Government Code, to read:

831.25. (a) Neither a public entity nor a public employee is liable for any damage or injury to property, or for emotional distress unless the plaintiff has suffered substantial physical injury, off the public entity's property caused by land failure of any unimproved public property if the land failure was caused by a natural condition of the unimproved public property.

(b) For the purposes of this section, a natural condition exists and property shall be deemed unimproved notwithstanding the intervention of minor improvements made for the preservation or prudent management of the property in its unimproved state that did not contribute to the land failure.

(c) As used in this section, "land failure" means any movement of land, including a landslide, mudslide, creep, subsidence, and any other gradual or rapid movement of land.

(d) This section shall not benefit any public entity or public employee who had actual notice of probable damage that is likely to occur outside the public property because of land failure and who fails to give a reasonable warning of the danger.

(e) Nothing in this section shall limit the immunity provided by Section 831.2.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury to property or of liability for emotional distress.

CHAPTER 1072

An act to amend Sections 50067 and 50072 of, to add Part 4.5 (commencing with Section 19902) to Division 13 of, and to add Section 50152.7 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Part 4.5 (commencing with Section 19902) is added to Division 13 of the Health and Safety Code, to read:

PART 4.5. SHARED HOUSING FOR THE ELDERLY AND THE HANDICAPPED

19902. The Legislature finds and declares that the elderly and the handicapped who live together in a shared housing arrangement benefit from this arrangement by having their housing needs met at reduced cost.

It is the intent of the Legislature to promote shared housing for the elderly and the handicapped by enacting this part.

19903. As used in this part:

(a) "Assistance" means direct financial assistance for a multifamily housing development, including, but not limited to, assistance provided pursuant to this division by the department or agency, and mortgage and construction financing provided by a public agency.

(b) "Dwelling" means all housing whether owned or rented.

(c) "Elderly" shall have the same meaning as is given that term by Section 50067.

(d) "Handicapped" shall have the same meaning as is given that term by Section 50072.

(e) "Elderly or handicapped household" means, two or more persons who live together as a household, without regard to any specific relationship, and at least one of whom is an elderly or handicapped person or an elderly and handicapped person.

(f) "Public agency" means the state, any county, city, city and county, district, redevelopment agency, housing authority, or any other political subdivision of the state. "Public agency" includes a federal agency if the requirements of this part would not conflict with, or be preempted by, the requirements of federal law.

19904. (a) Notwithstanding any other provision of law, or any rule, regulation, condition, covenant, or restriction to the contrary, if a public agency owns and operates, or owns and causes to be operated, or provides assistance to, a housing development, and if a private owner or operator of a housing development receives assistance from a public agency, an elderly or handicapped

household may qualify and live together in an efficiency, studio, or one bedroom unit of that housing development.

(b) The public agency, or private owner or operator of a housing development receiving assistance from a public agency, may prohibit residency as provided in subdivision (a) on any of the following grounds:

(1) If compliance with subdivision (a) would violate or be inconsistent with a federal or state law or regulation or local ordinance or regulation relating to health and safety.

(2) If the combined income of all persons in the elderly or handicapped household, considering all permitted deductions and adjustments, is not in the income category of a family of the same size that would be eligible for assisted rental housing, if and to the extent that income limitations or requirements exist.

(3) If the density of use of the dwelling unit would violate the requirements for efficiency, studio, or one bedroom units as prescribed by the Uniform Housing Code, or regulations promulgated by the Department of Housing and Community Development pursuant to Section 50152.7.

(4) Those persons otherwise violate the requirements imposed pursuant to state or federal law for the particular rental housing program for which they seek to qualify.

SEC. 1.5. Section 19904 of the Health and Safety Code, as added by Section 1 of this act, is amended to read:

19904. (a) Notwithstanding any other provision of law, or any rule, regulation, condition, covenant, or restriction to the contrary, if a public agency owns and operates, or owns and causes to be operated, or provides assistance to, a housing development, and if a private owner or operator of a housing development receives assistance from a public agency, an elderly or handicapped household may qualify and live together in an efficiency, studio, or one bedroom unit of that housing development.

(b) (1) The public agency, or private owner or operator of a housing development receiving assistance from a public agency, may prohibit residency as provided in subdivision (a) on any of the following grounds:

(A) If compliance with subdivision (a) would violate or be inconsistent with a federal or state law or regulation or local ordinance or regulation relating to health and safety.

(B) If the combined income of all persons in the elderly or handicapped household, considering all permitted deductions and adjustments, is not in the income category of a family of the same size that would be eligible for assisted rental housing, if and to the extent that income limitations or requirements exist.

(C) If the density of use of the dwelling unit would violate the requirements for efficiency, studio, or one bedroom units as prescribed by the Uniform Housing Code, or regulations promulgated by the Department of Housing and Community Development pursuant to Section 50152.7.

(D) Those persons otherwise violate the requirements imposed pursuant to state or federal law for the particular rental housing program for which they seek to qualify.

(2) This subdivision does not apply to any residency, occupancy, or use of a dwelling that is permitted under Section 51.3 of the Civil Code.

SEC. 2. Section 50152.7 is added to the Health and Safety Code, to read:

50152.7. The department may promulgate regulations establishing habitability standards for dwelling units assisted by the department providing for the density, use, and physical standards of housing units shared pursuant to Section 19904, for the purpose of assuring decent, safe, and sanitary standards for those households while taking into account the special circumstances of shared housing. Notwithstanding any other provision of law, these regulations shall not be considered building standards and shall be treated as program regulations promulgated pursuant to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 50067 of the Health and Safety Code is amended to read:

50067. "Elderly" means a family in which the head of the household is 60 years of age or older, a single person who is 60 years of age or older, or an elderly or handicapped household as defined in Section 19903 and subject to Part 4.5 (commencing with Section 19902) of Division 13. The age may be adjusted by the agency to facilitate participation in other municipal, state, or federal programs.

SEC. 4. Section 50072 of the Health and Safety Code is amended to read:

50072. "Handicapped" means a family in which the head of the household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such a physical disability, where the family or person requires special care or facilities in the home. "Handicapped" also includes a family in which the head of household suffers from a developmental disability specified in subdivision (a) of Section 38010 or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such a developmental disability or mental disorder. "Handicapped" also includes an elderly or handicapped household, as defined in Section 19903 and subject to Part 4.5 (commencing with Section 19902) of Division 13.

SEC. 5. Section 1.5 of this act shall become operative only if SB 1553 of the 1984 Regular Session of the Legislature is chaptered and becomes effective January 1, 1985, and as enacted adds Section 51.3 to the Civil Code. In such case, Section 1.5 of the act shall become operative January 1, 1985.

CHAPTER 1073

An act to amend Section 52314 of, and to add and repeal Section 52314.5 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 52314 of the Education Code is amended to read:

52314. (a) Except as provided in subdivision (b), any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is eligible to attend a regional occupational center or regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any such cooperating school districts may admit to the center, or program, any pupil, otherwise eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to the center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults under Section 52610 shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his or her admission to the regional occupational center or regional occupational program.

A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be.

A county superintendent of schools maintaining a regional occupational program or regional occupational center may admit pupils residing in the county but outside of school districts participating in the county regional occupational program or regional occupational center pursuant to the provisions of Section 46617.5. The county superintendent of schools may authorize pupils who reside in school districts participating in the regional

occupational center or regional occupational program conducted by the county superintendent of schools to enroll in other regional occupational programs or regional occupational centers when it is determined that it is in the best interest of the pupils to do so. This attendance shall be pursuant to an attendance agreement specifying that the county superintendent of schools authorizes the regional occupational center or regional occupational program conducting the classes to report the average daily attendance in the classes to the district of residence for the purpose of receiving state apportionments and determining the revenue limit. The agreements shall specify that the district of residence shall pay the regional occupational program or regional occupational center the actual cost per unit of average daily attendance.

(b) No pupil shall be eligible to be admitted to a regional occupational center or program, nor may his or her attendance be credited to a regional occupation center or program, until he or she has attained the age of 16 years, unless the pupil meets one or more of the following conditions:

(1) The pupil is enrolled in grade 11 or a higher grade.

(2) The pupil received a referral and:

(A) The pupil is referred to a regional occupational center or program by a school counselor, school administrator, or classroom teacher. The referral shall include a written statement of the reasons why the pupil's educational needs cannot be met without the pupil being enrolled in a regional occupational center or program.

Pupils under 16 years of age eligible for enrollment in regional occupational centers and programs under this paragraph include, but are not necessarily limited to, both of the following:

(i) Pupils in immediate need of employment training which is designed to lead to employment upon completion of the training.

(ii) Pupils for whom there is a high probability that they will leave school prior to graduation.

(B) The referral is reviewed and approved by the principal of the school in which the pupil is enrolled.

(C) The referral is reviewed and approved by the director of the regional occupational center or program to which the pupil has been referred.

(3) The pupil's individualized education program adopted pursuant to the requirements of Chapter 2 (commencing with Section 56300) of Part 30 prescribes occupational training for which his or her enrollment in a regional occupational center or program is deemed appropriate.

(c) Each school district, county superintendent of schools, or joint powers agency which maintains a regional occupational center or regional occupational program shall submit to the State Department of Education, at the time and in the manner prescribed by the Superintendent of Public Instruction, the enrollment and average daily attendance for each grade level and the enrollment and average daily attendance for each exemption set forth in subdivision

(b).

The State Department of Education shall submit this information to the Legislature by April 1 of each year for the preceding school year.

SEC. 1.5. Section 52314.5 is added to the Education Code, to read:

52314.5. (a) The average daily attendance of pupils enrolled in a regional occupational center or program pursuant to paragraph (2) of subdivision (b) of Section 52314 shall not exceed the following amount:

(1) Divide the enrollment of pupils under the age of 16 years in the regional occupational center or program in the 1982–83 fiscal year by three.

(2) Multiply the amount computed pursuant to paragraph (1) by 0.25.

(b) Not later than January 30, 1986, the Department of Education shall recommend to the Legislature and to the Department of Finance a process by which school personnel can identify those pupils under the age of 16 years that are appropriately served by regional occupational centers and programs.

(c) This section shall remain in effect until June 30, 1986, and as of that date is repealed unless a later enacted statute which is chaptered on or before June 30, 1986, deletes or extends that date.

SEC. 2. (a) It is the intent of the Legislature that the funds provided pursuant to this section shall only be available for a limited time, and that these funds not become part of the funding base of the regional occupational centers and programs receiving funds pursuant to this section. It is further the intent of the Legislature that this funding shall be utilized to assist small regional occupational centers and programs to make the necessary adjustments in their programs due to the restrictions on the enrollment of 9th and 10th grade pupils required pursuant to this act.

(b) Notwithstanding any other provision of law, from funds appropriated pursuant to Schedule (i) of Provision 2 of Item 6100-101-001 of the Budget Act of 1984, the Superintendent of Public Instruction may allocate up to 5 percent of the funds provided for growth to regional occupational centers and programs which generate not more than 350 units of annual average daily attendance and serve small high schools.

(c) For the purposes of this section, "small high schools" means regular, comprehensive high schools that generate annually less than 350 units of average daily attendance.

(d) In allocating the funds provided pursuant to subdivision (b), the superintendent shall consider the funding needs of regional occupational centers and programs to maintain their programs in light of the restrictions on funding for 9th and 10th grade pupils prescribed by Section 52314 of the Education Code.

(e) This section shall remain in effect until June 30, 1986, and as of that date is repealed.

SEC. 3. (a) From the unexpended balance of the funds

appropriated pursuant to Section 14002.1 of the Education Code for the 1983–84 fiscal year, up to five million six hundred thousand dollars ($5,600,000) is hereby reappropriated and transferred to Schedule (e) of Provision 2 of Item 6100-101-001 of the Budget Act of 1983 for allocation pursuant to Provision 3 of Item 6100-101-001 of the Budget Act of 1983.

(b) The Legislature finds that the appropriation made by subdivision (a) represents the difference between twelve million six hundred forty-seven thousand dollars ($12,647,000), the amount vetoed by the Governor from Item 6100-101-001 of the Budget Act of 1983 for regional occupational centers and programs, less the amount, to be determined by the Superintendent of Public Instruction, which would have been available for 9th and 10th grade pupils in regional occupational centers and programs based on the 1982–83 fiscal year average daily attendance of these pupils.

SEC. 4. From the unexpended balance of the funds appropriated pursuant to Section 14002.1 of the Education Code for the 1983–84 fiscal year and the unexpended balance of the funds appropriated pursuant to Item 6100-106-001 and Item 6100-111-001 of the Budget Act of 1982, twenty-four million three hundred seventy-nine thousand dollars ($24,379,000) is hereby reappropriated for the following purposes and to be allocated in the following order:

(a) For transfer to Schedule (a) of Item 6100-101-001 of the Budget Act of 1983 for the purpose of funding the deficiency in school district revenue limits for the 1983–84 fiscal year, twenty-three million three hundred twelve thousand dollars ($23,312,000). If the State Department of Education determines at the annual apportionment for the 1983–84 fiscal year that the funds appropriated for allocation pursuant to this subdivision are greater than the amount necessary to fund the deficiency in school district revenue limits for the 1983–84 fiscal year, the excess funds shall be reverted to the unappropriated surplus of the General Fund no later than June 30, 1985.

(b) For transfer to Item 6100-106-001 of the Budget Act of 1983 for the purpose of funding the deficiency in county office of education revenue limits for the 1983–84 fiscal year, four hundred nineteen thousand dollars ($419,000).

(c) For the purpose of funding the deficiency in paragraph (6) of subdivision (a) of Section 41301.3 of the Education Code for 10th grade counseling for the 1983–84 fiscal year, three hundred forty-two thousand dollars ($342,000).

(d) For transfer to Item 6100-124-001 of the Budget Act of 1983 for the purpose of funding the deficiency in the Gifted and Talented Education program for the 1983–84 fiscal year, three hundred six thousand dollars ($306,000).

SEC. 5. From the unexpended balance of the funds appropriated pursuant to Item 6100-161-001 of the Budget Act of 1982, the sum of eight hundred thousand dollars ($800,000) is hereby reappropriated and transferred to, for the augmentation of, Item 6100-006-001 of the

Budget Act of 1984 for allocation by the Department of Finance for the purpose of conducting seismological tests at the state special school for the blind located in Fremont.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that funding necessary for the admission of pupils to regional occupational centers or programs in accordance with the requirements of this act will be included in the Budget Act of 1984, and in order that these programs and centers may continue to operate without unnecessary interruption, it is necessary that this act take effect immediately.

CHAPTER 1074

An act to add and repeal Sections 56255, 56256, 56257, and 56417.2 of the Government Code, relating to local agencies.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 56255 is added to the Government Code, to read:

56255. (a) Within 10 days after receiving a proposal to form a subsidiary district, the executive officer shall notify by certified mail the district or districts which are the subject of the proposal.

(b) Within 35 days after receiving the notice from the executive officer, the board of directors of the subject district or districts may do either of the following:

(1) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions.

(2) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.

(c) Any resolution adopted under paragraph (1) or (2) of subdivision (b) shall immediately be filed with the executive officer.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. Section 56256 is added to the Government Code, to read:

56256. If a district files a resolution of intention to file an alternative proposal pursuant to paragraph (2) of subdivision (b) of Section 56255, the executive officer shall take no further action on the original proposal to form a subsidiary district for a period of 70 days. During this period, the district which has filed a resolution of intention shall prepare and submit a completed application for the

alternative proposal in a form similar to the original proposal, as prescribed by the commission.

A district which has filed a resolution of intention to file an alternative proposal but which does not file a completed application within the prescribed time period, shall be deemed to have consented to the original proposal to form a subsidiary district.

After receiving an alternative proposal, the executive officer shall analyze and report on both the original proposal and the alternative proposal concurrently and set both for hearing by the commission in order that both proposals may be considered simultaneously at a single hearing.

For purposes of this section, "alternative proposal" means an alternative proposal to a subsidiary district proposal as provided for in Section 56255.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 3. Section 56257 is added to the Government Code, to read:

56257. (a) Within 35 days following the conclusion of a hearing on an original and an alternative proposal to form a subsidiary district, the commission shall adopt its resolution of determination, which shall do one of the following:

(1) Deny both the original proposal and the alternative proposal.

(2) Approve both the original proposal and the alternative proposal.

(3) Approve one proposal and deny the other.

(b) If the commission approves both proposals, it shall adopt an order directing the board of supervisors to consider both proposals at a single hearing and to do one of the following:

(1) Deny both the original proposal and the alternative proposal.

(2) Approve both the original proposal and the alternative proposal.

(3) Approve one proposal and deny the other.

For purposes of this section, "alternative proposal" means an alternative proposal to a subsidiary district proposal as provided for in Section 56255.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 4. Section 56417.2 is added to the Government Code, to read:

56417.2. In any resolution approving, subject to the confirmation of the voters, both an original and an alternative proposal as determined by the commission pursuant to paragraph (2) of subdivision (a) of Section 56257, the ballot at the election shall enable those voting to do one of the following:

(a) Disapprove both proposals.

(b) Approve either the original proposal or the alternative proposal.

The board of supervisors shall adopt a resolution confirming the proposal which was favored by a majority of votes cast at the election. Where both proposals were favored by a majority of the votes cast, the board of supervisors shall adopt a resolution confirming the proposal which received the greater number of votes.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1075

An act to amend Sections 25105, 25124, 26205, and 26205.1 of the Government Code, relating to counties.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 25105 of the Government Code is amended to read:

25105. The board of supervisors may authorize the use of photographs, microphotographs, electronic data-processing records, or photocopies of all records, books and minutes of the board.

(a) Each photograph, microphotograph, or photocopy shall be made in such manner and on such paper as will comply with the minimum standards of quality approved therefor by the National Bureau of Standards. Every reproduction shall be deemed and considered an original; and a transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original. Each roll of microfilm shall be deemed and constitute a book and shall be designated and numbered, and provision shall be made for preserving, examining, and using it. A duplicate of each roll of microfilm shall be made and kept in a safe and separate place.

(b) Electronic data-processing records shall comply with the minimum standards of the National Bureau of Standards. A duplicate copy of any electronic data-processing record reproduced shall be deemed an original.

(c) In the event such authorization as provided herein is granted, the personal signatures required by Section 25103 may be reproduced by such authorized process, and such reproduced

signatures shall be deemed to satisfy the requirement of Section 25103.

SEC. 2. Section 25124 of the Government Code is amended to read:

25124. (a) Except as provided in subdivision (c), before the expiration of 15 days after the passage of an ordinance it shall be published once, with the names of the members voting for and against the ordinance, in a newspaper published in the county if there is one, and if there is no newspaper published in the county, the ordinance shall be posted in a prominent location at the board of supervisors' chambers within the 15-day period and remain posted thereafter for at least one week. The local agency, at its option, may include in an ordinance reclassifying land either a brief description accompanied by a map of the boundaries of the property, as recited in the notice of hearing, or a complete metes and bounds description accompanied by a map depicting the reclassified property and adjacent properties. A certificate of the clerk of the board of supervisors or order entered in the minutes of the board that the ordinance has been duly published or posted is prima facie proof of the publication or posting.

(b) The publication or posting of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The county board of supervisors may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the board of supervisors. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the clerk of the board of supervisors at least five days prior to the board of supervisors meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the board of supervisors shall publish a summary of the ordinance or amendment with the names of those supervisors voting for and against the ordinance or amendment and the clerk shall post in the office of the clerk of the board of supervisors a certified copy of the full text of the adopted ordinance or amendment along with the names of those supervisors voting for and against the ordinance or amendment.

(2) If the county official designated by the board of supervisors determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the board of supervisors so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five days prior to the board of supervisors meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the

proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of such ordinance or amendment, and the names of those supervisors voting for and against the ordinance or amendment.

(c) If the clerk of the board of supervisors fails to publish an ordinance within 15 days after the date of adoption, the ordinance shall not take effect until 30 days after the date of publication.

SEC. 3. Section 26205 of the Government Code is amended to read:

26205. At the request of the county officer concerned, the board of supervisors of any county may authorize the destruction of any record, paper, or document which is not expressly required by law to be filed and preserved if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the county's electronic data-processing system, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards.

(b) The device used to reproduce such record, paper, or document on film is one which accurately reproduces the original thereof in all details.

(c) The photographs, microphotographs, electronically recorded video images on magnetic surfaces, records in the county's electronic data-processing system, or other reproductions on film are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of such images is separately maintained. A duplicate copy of a record contained in the county's electronic data-processing system shall also be separately maintained.

SEC. 4. Section 26205.1 of the Government Code is amended to read:

26205.1. (a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of such records, documents, instruments, books and papers if each of the following conditions exist:

(i) The board of supervisors of the county has adopted a resolution authorizing such county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. Such resolution may impose such conditions, in addition to those specified in this subdivision, as the board of supervisors determines are appropriate.

(ii) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to clause (i) shall maintain for the use of the public a photographic or microphotographic film, electronic recorded video production, a record contained in the county's electronic data-processing system, or other duplicate of such record, document, instrument, book or paper destroyed.

(iii) Clause (ii) shall not apply to records prepared or received other than pursuant to a state statute or county charter, or records which are not expressly required by law to be filed and preserved.

For the purposes of this subdivision, every reproduction shall be deemed to be an original record and a transcript, exemplification or certified copy of any reproduction shall be deemed to be a transcript, exemplification or certified copy, as the case may be, of the original.

(b) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all such documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1076

An act to amend Section 14051 of the Government Code, relating to transportation.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 14051 of the Government Code is amended to read:

14051. (a) At the commencement of each regular session of the

Legislature, the department shall submit to the Legislature a report summarizing information required under, and programs authorized by, Sections 118.6, 216, and 820 of, Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of, and Chapter 4.6 (commencing with Section 2170) and Chapter 13 (commencing with Section 2540) of Division 3 of, the Streets and Highways Code.

(b) Information on other program activities may be included in the biennial report at the discretion of the department.

(c) The report required by this section shall also include all of the following:

(1) The status of alternative technologies in transportation, including, but not limited to, the efforts made in research development.

(2) Alternatives to fossil fuels to power transportation devices, including alternative methods of propulsion of motor vehicles.

(d) The alternative technologies reported on shall seek to improve public safety, energy efficiency, and air quality.

(e) The department shall coordinate with the State Energy Resources Conservation and Development Commission in preparing the information required by subdivisions (c) and (d).

SEC. 2. Section 14051 of the Government Code is amended to read:

14051. (a) At the commencement of each regular session of the Legislature, the department shall submit to the Legislature a report summarizing information required under, and programs authorized by, Sections 118.6, 216, and 820 of, Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1 of, and Chapter 4.6 (commencing with Section 2170) and Chapter 13 (commencing with Section 2540) of Division 3 of, the Streets and Highways Code.

(b) Information on other program activities may be included in the biennial report at the discretion of the department.

(c) The report required by this section shall also include all of the following:

(1) An evaluation of significant air transportation issues anticipated to be of public concern during the five-year period commencing January 1 of the year preceding the date for submission of the report and beyond.

(2) Recommended modifications to state and federal law, where appropriate.

(3) An overview of necessary future investments in the development and maintenance of the state's air transportation system.

(4) An analysis of the department's organizational and staff needs relative to its air transportation responsibilities.

(5) A review of state aeronautics policy.

In preparing the portion of the report required by this subdivision, the department shall fully consider and incorporate air transportation needs as identified by local government and the private sector, as well as the need to fully integrate air transportation

issues and concerns into the mission of the department.

(d) The report required by this section shall also include all of the following:

(1) The status of alternative technologies in transportation, including, but not limited to, the efforts made in research development. The alternative technologies reported on shall seek to improve public safety, energy efficiency, and air quality.

(2) Alternatives to fossil fuels to power transportation devices, including alternative methods of propulsion of motor vehicles.

(e) The department shall coordinate with the State Energy Resources Conservation and Development Commission in preparing the information required by subdivision (d).

SEC. 3. Section 2 of this bill incorporates amendments to Section 14051 of the Government Code proposed by both this bill and AB 3521. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 14051 of the Government Code, and (3) this bill is enacted after AB 3521, in which case Section 1 of this bill shall not become operative.

CHAPTER 1077

An act to amend Sections 5011, 5014, 5015, 5016, 5016.5, 5017, 9261, 9265, 36005, 36101, 36102, 36109, and 36115 of, to add Section 5018 to, to repeal and add Section 36130 of, and to repeal Sections 36115.5, 36120, and 36125 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 5011 of the Vehicle Code is amended to read:

5011. (a) Every piece of special construction equipment, special mobile equipment, cemetery equipment, every tow dolly, and every logging vehicle shall display an identification plate issued pursuant to Section 5014.

(b) Effective January 1, 1986, all existing identification plates are canceled. Owners of vehicles specified in subdivision (a) shall apply for identification plates pursuant to Section 5014 or 5016.5.

SEC. 2. Section 5014 of the Vehicle Code is amended to read:

5014. An application by a person other than a manufacturer or dealer for an identification plate for special construction equipment, cemetery equipment, special mobile equipment, tow dolly, logging vehicle, cotton trailer, or farm trailer as specified in Section 36109, a vehicle which is farmer-owned and used as provided in subdivision (b) of Section 36101, a motor vehicle which is farmer-owned and operated and used as provided in subdivision (a) of Section 36101, or

an automatic bale wagon operated as specified in subdivision (a) or (b) of Section 36102 shall include the following:

(a) A statement by the owner of the use or uses which he intends to make of the equipment.

(b) A description of the vehicle, including any distinctive marks or features.

(c) A photograph of the vehicle. Only one photograph of one piece of equipment shall be required to be attached to the application when identification plates are to be obtained for more than one piece of equipment, each of which is of the same identical type.

(d) Such other information as may reasonably be required by the department to determine whether the applicant is entitled to be issued an identification plate.

(e) A service fee of seven dollars ($7) for each vehicle. The plates shall be renewed between January 1 and February 4 every five calendar years, commencing in 1986. Any part of the year of the first application constitutes a calendar year.

SEC. 3. Section 5015 of the Vehicle Code is amended to read:

5015. (a) The application for an identification plate for special construction equipment, special mobile equipment, cemetery equipment, any tow dolly, and any logging vehicle shall be made before any such piece of equipment is moved over a highway.

(b) The application for an identification plate for a cotton trailer or a farm trailer as specified in Section 36109, a vehicle which is farmer-owned and used as provided in subdivision (b) of Section 36101, a motor vehicle which is farmer-owned and operated and used as provided in subdivision (a) of Section 36101, or an automatic bale wagon operated as specified in subdivision (a) or (b) of Section 36102 shall be made before any such piece of equipment is moved over a highway.

SEC. 4. Section 5016 of the Vehicle Code is amended to read:

5016. Upon proper application and payment of the fees specified in Section 9261, the department shall issue an identification plate and an identification card for the piece of equipment, vehicle, or implement of husbandry for which application is made.

SEC. 5. Section 5016.5 of the Vehicle Code is amended to read:

5016.5. (a) The department may issue a special identification plate or other suitable device to a manufacturer or dealer of special construction equipment, special mobile equipment, cemetery equipment, tow dolly, logging vehicle, or implement of husbandry upon payment of the fee specified in subdivision (b) of Section 9261. The identification plate or other suitable device shall be of a size, color, and configuration determined by the department. The form of the application shall also be determined by the department.

(b) A manufacturer or dealer of special construction equipment, special mobile equipment, cemetery equipment, any tow dolly, any logging vehicle, or any implement of husbandry may operate or move such equipment or vehicle upon the highways during the

delivery of or during the demonstration for the sale of such piece of equipment or vehicle upon condition that any such equipment or vehicle display thereon an identification plate or other suitable device issued to such manufacturer or dealer; provided, that special permits have been obtained in accordance with the provisions of Article 6 (commencing with Section 35780) of Chapter 5 of Division 15 for the operation or movement of any such equipment or vehicle of a size, weight, or load exceeding the maximum specified in this code.

SEC. 6. Section 5017 of the Vehicle Code is amended to read:

5017. Each identification plate issued under Section 5016 shall bear a distinctive number to identify the equipment, logging vehicle, or implement of husbandry for which it is issued. The owner, upon being issued a plate, shall attach it to the equipment, logging vehicle, or implement of husbandry for which it is issued and shall carry the identification card issued by the department as provided by Section 4454. It shall be unlawful for any person to attach or use the plate upon any other equipment, vehicle, or implement of husbandry. If the equipment, logging vehicle, or implement of husbandry is destroyed or the ownership thereof transferred to another person, the person to whom the plate was issued shall within 10 days notify the department, on a form approved by the department, that the equipment, logging vehicle, or implement of husbandry has been destroyed or the ownership thereof transferred to another person.

SEC. 7. Section 5018 is added to the Vehicle Code, to read:

5018. Whenever the ownership of equipment, a logging vehicle, or an implement of husbandry is transferred, the transferee shall within 10 days thereafter make application to the department for a transfer of ownership and pay the fee specified in subdivision (c) of Section 9261.

SEC. 8. Section 9261 of the Vehicle Code is amended to read:

9261. (a) A service fee of seven dollars ($7) shall be paid for an identification plate issued pursuant to Section 5014. Publicly owned special construction equipment, cemetery equipment, special mobile equipment, tow dollies, logging vehicles, and implements of husbandry are exempt from the service charge.

(b) A service fee of seven dollars ($7) shall be paid for an identification plate issued pursuant to Section 5016.5.

(c) Upon application for the transfer of interest of an owner in a piece of equipment, vehicle, or implement of husbandry identified pursuant to Section 5014, the transferee shall pay a fee of seven dollars ($7).

(d) A fee of three dollars ($3) shall be paid upon the renewal of an identification plate issued pursuant to Section 5014 or 5016.5.

SEC. 9. Section 9265 of the Vehicle Code is amended to read:

9265. Upon application for duplicates or substitutes as permitted under this code, the following fees shall be paid:

(a) For a duplicate certificate of ownership or regis-

tration card or equipment identification card	$7
(b) For any duplicate license plates, except environmental license plates, or substitute plates, or equipment identification plate for the same vehicle	7

SEC. 10. Section 36005 of the Vehicle Code is amended to read:

36005. Implement of husbandry includes, but is not limited to:

(a) A lift-carrier or other vehicle designed and used exclusively for the lifting and carrying of implements of husbandry or tools used exclusively for the production or harvesting of agricultural products, when operated or moved upon a highway.

(b) A trailer of the tip-bed type when used exclusively in the transportation of other implements of husbandry or tools used exclusively for the production or harvesting of agricultural products.

(c) A one-axle trailer of the tip-bed type when used exclusively in the transportation of other implements of husbandry or tools used exclusively for the production or harvesting of agricultural products.

(d) A two-wheeled trailer having no bed, and designed and used solely for transporting a hay loader.

(e) A spray or fertilizer applicator rig designed and used exclusively for spraying or fertilizing in the conduct of agricultural operations.

(f) A nurse rig or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of a spray rig or an airplane used for the dusting, spraying, fertilizing, or seeding of crops.

(g) A row duster.

(h) A wagon or van used exclusively for carrying products of farming from one part of a farm to another part thereof, or from one farm to another farm, and used solely for agricultural purposes, including any van used in harvesting alfalfa or cotton, which is only incidentally operated or moved on a highway as a trailer.

(i) A wagon or portable house on wheels used solely by shepherds as a permanent residence in connection with sheepraising operations and moved from one part of a ranch to another part thereof or from one ranch to another ranch, which is only incidentally operated or moved on a highway as a trailer.

(j) A trap wagon moved from one part of a ranch to another part of the same ranch or from one ranch to another, which is only incidentally operated or moved on a highway.

(k) Any vehicle which is operated upon a highway only for the purpose of transporting agricultural products and is in no event operated along a highway for a total distance greater than one mile from the point of origin of the trip.

(*l*) A portable honey-extracting trailer or semitrailer.

(m) A fertilizer nurse tank or trailer that is not self-propelled and which is moved unladen on the highway and auxiliary to the use of a spray or fertilizer applicator rig.

(n) Any cotton trailer when used on the highways for the exclusive purpose of transporting cotton from a farm to a cotton gin, and returning the empty trailer to such farm, except that Section 5014 shall apply to such trailers.

(o) A truck tractor or truck tractor and semitrailer combination specified in this subdivision which is owned by a farmer and operated on the highways, (1) only incidental to a farming operation, (2) not for compensation, and (3) for a distance of not more than two miles (on the highway) each way. This subdivision applies only to truck tractors with a manufacturer's gross vehicle weight rating over 10,000 pounds that are equipped with all-wheel drive and off-highway traction tires on all wheels, and only to semitrailers used in combination with such a truck tractor and exclusively in production or harvesting of melons or tomatoes. The vehicles specified in this section shall not be operated in excess of 25 miles per hour on the highways.

SEC. 11. Section 36101 of the Vehicle Code is amended to read:

36101. The following farm vehicles are exempt from registration, if they have and display an identification plate as specified in Section 5014, and the vehicles shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) A motor vehicle of a size so as to require a permit under Section 35780 owned and operated by a farmer, designed and used exclusively for carrying or returning empty from carrying feed and seed products of farming, and used on a highway between one part of a farm to another part thereof or from one farm to another farm.

(b) A vehicle equipped with a water tank owned by a farmer and used exclusively to service his or her own implements of husbandry.

(c) A water tank truck which is used exclusively for sprinkling water on dirt roads providing access to agricultural fields and which is only incidentally operated or moved on a highway.

(d) A cotton module mover, as defined in Section 267.

(e) A trailer which is equipped with a plenum chamber for the drying of agricultural commodities.

SEC. 12. Section 36102 of the Vehicle Code is amended to read:

36102. The following vehicles are exempt from registration if they have and display identification plates, as specified in Section 5014; and these vehicles, except when operated pursuant to subdivision (k) of Section 36005, shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) An automatic bale wagon operated unladen on a highway.

(b) An automatic bale wagon when transporting baled hay or straw for a distance of not more than five continuous road miles on a highway from one parcel of property owned, leased, or controlled by a farmer to another parcel of property owned, leased, or controlled by such farmer.

SEC. 12.5. Section 36102 of the Vehicle Code is amended to read:

36102. The following vehicles are exempt from registration if

they have and display identification plates, as specified in Section 5014; and these vehicles, except when operated pursuant to subdivision (k) of Section 36005, shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) An automatic bale wagon operated unladen on a highway.

(b) An automatic bale wagon when transporting baled hay or straw for a distance of not more than five continuous road miles on a highway from one parcel of property owned, leased, or controlled by a farmer to another parcel of property owned, leased, or controlled by such farmer.

(c) A motor vehicle which is designed for, and used exclusively to, haul feed for livestock and which is owned and operated exclusively by a farmer or an employee of a farmer. A vehicle exempted by this subdivision may be operated only on those highways that are maintained by local authorities, only pursuant to a permit issued as provided in Section 35780 by the local authority having jurisdiction over the highways used, and only for a distance of not more than five continuous road miles from one parcel of property owned, leased, or controlled by the farmer to another parcel of property owned, leased, or controlled by the farmer. This subdivision does not apply to transportation for compensation.

SEC. 13. Section 36109 of the Vehicle Code is amended to read:

36109. "Farm trailers," as defined in Section 36010, having a gross weight of 6,000 pounds or less, are exempt from registration except that Section 5014 shall apply to such trailers.

SEC. 14. Section 36115 of the Vehicle Code is amended to read:

36115. (a) Any person who owns an implement of husbandry which is exempt from registration may obtain an identification plate as provided in Section 5014 for the implement.

(b) The department shall issue an identification plate as applied for to any manufacturer or dealer of an implement of husbandry which is exempt from registration as provided in Section 5016.5. That manufacturer or dealer may obtain more than one plate.

SEC. 15. Section 36115.5 of the Vehicle Code is repealed.

SEC. 16. Section 36120 of the Vehicle Code is repealed.

SEC. 17. Section 36125 of the Vehicle Code is repealed.

SEC. 18. Section 36130 of the Vehicle Code is repealed.

SEC. 19. Section 36130 is added to the Vehicle Code, to read:

36130. (a) On and after January 1, 1986, original applications for identification plates on vehicles specified in Division 16 (commencing with Section 36000) shall be submitted pursuant to Section 5014 or Section 5016.5.

(b) Effective January 1, 1986, identification plates that expired on December 31, 1983, shall not be eligible for renewal. Applicants shall apply for identification plates pursuant to Section 5014 or Section 5016.5.

(c) Commencing with 1987 renewals, all expiring identification plates are canceled and owners of vehicles defined in Division 16

(commencing with Section 36000), that are required to display these plates, shall submit applications pursuant to Section 5014 or Section 5016.5.

SEC. 20. Section 12.5 of this bill incorporates amendments to Section 36102 of the Vehicle Code proposed by both this bill and AB 3268. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 36102 of the Vehicle Code, and (3) this bill is enacted after AB 3268, in which case Section 36102 of the Vehicle Code, as amended by AB 3268, shall remain operative only until the operative date of this bill, at which time Section 12.5 of this bill shall become operative, and Section 12 of this bill shall not become operative.

SEC. 21. This act shall become operative on July 1, 1985.

CHAPTER 1078

An act to amend Sections 653h and 653s of, and to add Sections 653u, 653v, and 653w to, the Penal Code, relating to music.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 653h of the Penal Code is amended to read:

653h. (a) Every person is guilty of a public offense punishable by imprisonment in the county jail for a term not to exceed one year, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such imprisonment and fine, who:

(1) Knowingly and willfully transfers or causes to be transferred any sounds that have been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for commercial advantage or private financial gain through public performance, the article on which the sounds are so transferred, without the consent of the owner.

(2) Transports for monetary or like consideration within this state or causes to be transported within this state any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(b) Any person who has been convicted of a violation of subdivision (a) shall, upon a subsequent conviction, be imprisoned in state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(c) Every person who possesses for sale, or sells or causes to be sold, any such article with knowledge that the sounds thereon have been so transferred without the consent of the owner is guilty of a misdemeanor punishable by imprisonment in the county jail not

exceeding six months, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(d) As used in this section, "person" means any individual, partnership, partnership's member or employee, corporation, association or corporation or association employee, officer or director; "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape., master film or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded, and from which the transferred recorded sounds are directly or indirectly derived; and "fixation of sounds" means the master recording from which copies can be made of the series of sounds constituting the sound recording.

(e) This section shall neither enlarge nor diminish the right of parties in private litigation.

(f) This section does not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds (other than from the sound track of a motion picture) intended for, or in connection with, broadcast transmission or related uses, or for archival purposes.

(g) This section does not apply to any not-for-profit educational institution or any federal or state governmental entity, if the institution or entity has as a primary purpose the advancement of the public's knowledge and the dissemination of information regarding America's musical cultural heritage, provided that this purpose is clearly set forth in the institution's or entity's charter, bylaws, certificate of incorporation, or similar document, and the institution or entity has, prior to the transfer, made a good faith effort to identify and locate the owner or owners of the sound recordings to be transferred and, provided that the owner or owners could not be and have not been located. Nothing in this section shall be construed to relieve an institution or entity of its contractual or other obiligation to compensate the owners of sound recordings to be transferred. In order to continue the exemption permitted by this subdivision, the institution or entity shall make continuing efforts to locate the owners and shall make an annual public notice of the fact of the transfers in newspapers of general circulation serving the jurisdictions where the owners were incorporated or doing business at the time of initial affixations. The institution or entity shall keep on file a record of the efforts made to locate the owners for inspection by appropriate governmental agencies.

(h) This section applies only to articles that were initially fixed prior to February 15, 1972.

SEC. 2. Section 653s of the Penal Code is amended to read:

653s. (a) Any person who possesses for sale, or who sells or causes to be sold, transports or causes to be transported for monetary or other consideration within this state, any article containing sounds of a live performance with the knowledge that the sounds thereon have been recorded or fixed without the consent of the owner of the

sounds of the live performance is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(b) As used in this section:

(1) "Live performances" means the recitation, rendering, or playing of a series of musical, spoken, or other sounds in any audible sequence thereof.

(2) "Article" means the original disc, wire, tape, film, phonograph record, or other recording device used to record or fix the sounds of the live performance and any copy or reproduction thereof which duplicates, in whole or in part, the original.

(3) "Person" means any individual, partnership, partnership member or employee, corporation, association, or corporation or association employee, officer, or director.

(c) In the absence of a written agreement or operation of law to the contrary, the performer or performers of the sounds of a live performance shall be presumed to own the right to record or fix those sounds.

(d) This section shall neither enlarge nor diminish the rights and remedies of parties to a recording or fixation of sounds which they might otherwise possess by law.

(e) This section shall not apply to persons engaged in radio or television broadcasting or cablecasting who record or fix the sounds of a live performance for, or in connection with, broadcast or cable transmission and related uses in educational television or radio programs, for archival purposes, or for news programs or purposes if the recordation or fixation of sounds is not commercially distributed independent of the broadcast or cablecast by or through the broadcasting or cablecasting entity to subscribers or the general public.

SEC. 3. Section 653u is added to the Penal Code, to read:

653u. Any person who records or fixes or causes to be recorded or fixed on any article with the intent to sell for commercial advantage or private financial gain, the sounds of a live performance with the knowledge that the sounds thereon have been recorded or fixed without the consent of the owner of the sounds of the live performance is guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one year, or by a fine not to exceed twenty-five thousand dollars ($25,000) or by both such imprisonment and fine.

SEC. 4. Section 653v is added to the Penal Code, to read:

653v. Whenever any person is convicted of any violation of Section 653h or 653s, the court, in its judgment of conviction, shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all articles, including, but not limited to, phonograph records, discs, wires, tapes, films, or any other article upon which sounds or images can be recorded or stored, and any and all electronic, mechanical, or other devices for

manufacturing, reproducing or assembling these articles, which were used in connection with, or which were part of, any violation of Section 653h or 653s.

SEC. 5. Section 653w is added to the Penal Code, to read:

653w. A person is guilty of failure to disclose the origin of a recording of sound when, for commercial advantage or private financial gain, he or she knowingly advertises or offers for sale or resale, or sells or resells, or possesses for these purposes, any phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, the outside cover box or jacket of which does not clearly and conspiciously disclose the actual true name and address of the manufacturer thereof, and the name of the actual performer or group.

Failure to disclose the origin of a recording of sound is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not to exceed five thousand dollars ($5,000).

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

CHAPTER 1079

An act to repeal Section 2106 of the Business and Professions Code, to amend Sections 69500, 69518, 69530, 69536, 69538, 69539, 69760, and 69769 of, to add Section 69507.5 to, to repeal and add Section 69546.5 of, to repeal Article 14 (commencing with Section 69790) of Chapter 2 of Part 42 of, the Education Code, and to repeal Chapter 1052 of the Statutes of 1972, relating to student financial aid.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 2106 of the Business and Professions Code is repealed.

SEC. 2. Section 69500 of the Education Code is amended to read:

69500. The Legislature finds and declares all of the following:

(a) Student assistance programs have the primary purpose of providing equal opportunity and access to postsecondary education for persons of both sexes, and all races, ancestries, incomes, ages, and geographies in California.

(b) Student aid programs should enhance the ability of individuals to choose the most appropriate postsecondary educational opportunity and among different institutions.

(c) Student aid programs should assist students to progress through the educational program in accordance with the individual's educational objectives.

(d) Student aid programs should provide assistance to individuals who desire to enroll in an independent college or university.

(e) Student aid programs should, furthermore, complement more general statewide goals for public postsecondary education.

(f) State purposes regarding student aid programs should complement the purposes of federal student assistance programs so as to enhance the effectiveness of state programs; the state's purposes mentioned above serve to enhance the purposes of the Pell Grant Program.

SEC. 3. Section 69507.5 is added to the Education Code, to read:

69507.5. (a) Except as provided in subdivision (b), no student shall receive a grant or fellowship administered by the Student Aid Commission if he or she has previously defaulted on any student loan, or has failed to repay a federal or state student grant where required to do so.

(b) If a student has made satisfactory arrangements to repay a default on a previous student loan, or to repay grant funds where required to do so, the student may be eligible to receive a grant or fellowship administered by the Student Aid Commission.

SEC. 4. Section 69518 of the Education Code is amended to read:

69518. (a) By November 1 of each fiscal year, the Student Aid Commission shall submit a formal budget proposal to the California Postsecondary Education Commission, the Joint Legislative Budget Committee, and the Department of Finance for inclusion in the Governor's Budget prepared pursuant to Section 12 of Article IV of the California Constitution.

(b) The budget proposal submitted pursuant to subdivision (a) shall include, but not be limited to, a description of the award selection procedures and eligibility criteria related to the award of grants pursuant to Sections 69516 and 69532 to be in effect for the forthcoming fiscal year and an analysis of the impact of any proposed adjustments on the distribution of funds and awards among income groups, ethnic groups, grade point average levels, and postsecondary education segments.

(c) Any supporting materials prepared for the Student Aid Commission's consideration and public review and comment pursuant to Sections 69516 and 69517 and this section shall be incorporated within the expenditure plan.

(d) If the Student Aid Commission proposes, in its budget proposal, adjustments to the maximum grant, number of grants, and the income ceiling for grant awards made pursuant to Section 69532, at least the following factors shall be considered in determining the appropriate adjustments:

(1) The impact of inflation.

(2) The availability of financial aid from other sources for students who would qualify for a grant award.

(3) Any changes in the level of educational support provided to students at public colleges and universities in the state.

(4) The impact of proposed adjustments in the maximum grant and in the income ceiling upon the utilization of public and private postsecondary educational institutions.

(5) The number of applicants eligible to receive an award in the previous year who did not receive an award in the previous year.

(e) The budget proposal shall include information on the prior year's distribution of funds and awards among income groups, ethnic groups, grade point average levels, and postsecondary education segments.

SEC. 5. Section 69530 of the Education Code is amended to read:

69530. The Legislature finds and declares all of the following:

(a) The enactment of the Pell Grant Program requires substantial changes in current state student aid programs if state programs are to effectively supplement federal student assistance.

(b) The entire student aid system, due to a proliferation of programs, has resulted in substantial confusion and inefficiencies.

(c) One statewide student assistance program supplementary to the Pell Grant Program would increase simplicity and effectiveness. The most appropriate program for this purpose is the Cal Grant awards program.

SEC. 6. Section 69536 of the Education Code is amended to read:

69536. A Cal Grant award for tuition and student fees as provided in subdivision (a) of Section 69532 may be utilized at any California postsecondary educational institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant Program, provided that the award shall not be utilized by a student enrolled in an instructional program of less than two years. The award shall not exceed the cost of tuition and fees, and shall not exceed the amount specified in the annual Budget Act. The awards may not be utilized for graduate study, and may be renewed for a total of four years of full-time attendance after first entering a postsecondary education institution in an instructional program or an equivalent thereof, provided that financial need continues to exist.

If a student is enrolled in a five-year undergraduate program, the grant may be renewed for a total of five years of full-time attendance after first entering a postsecondary education institution in an undergraduate instructional program or an equivalent thereof, provided that financial need continues to exist.

SEC. 7. Section 69538 of the Education Code is amended to read:

69538. To be eligible for a Cal Grant award for tuition, student fees, and subsistence costs as provided in subdivision (b) of Section 69532, the student shall be a disadvantaged student under criteria to be established by the commission, which shall take into consideration

those financial, educational, cultural, language, home, community, environmental, and other conditions which tend to make difficult the gaining access to and persisting in postsecondary programs. The awards may be utilized for tuition, student fees, living expenses, transportation, supplies, and books.

The Legislature recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students, and it is the intent of the Legislature that the additional opportunities for higher education provided pursuant to this chapter shall be initiated primarily on the public community college level.

Grants awarded under this chapter shall be for living expenses, transportation, supplies, and books, according to the student's financial need, and shall not be in excess of the amount specified in the annual Budget Act The Student Aid Commission may also award these grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university or other eligible postsecondary educational institution. No more than 2 percent of new recipients enrolling for the first time in an institution of postsecondary education shall be eligible for tuition payments in their first academic year of attendance.

In no case shall Cal Grant awards exceed the amount specified in the annual Budget Act, and the awards may not be utilized for graduate study. The awards may be utilized at any California postsecondary educational institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant Program, provided that the award shall not be utilized by a student enrolled in an instructional program of less than one academic year. The awards may be renewed for a total of four years of full-time attendance after first entering a postsecondary institution in an instructional program or an equivalent thereof, provided that financial need continues to exist.

If a student is enrolled in a five-year undergraduate program, the grant may be renewed for a total of five years for full-time attendance after first entering a postsecondary education institution in an undergraduate instructional program or an equivalent thereof, provided that financial need continues to exist.

An individual who is awarded a Cal Grant award authorized pursuant to subdivision (b) of Section 69532, who enrolls in a public community college in his or her first year of attendance, and who is determined to be financially ineligible for renewal of the award in the second year of attendance at a public community college but would be financially eligible for renewal, if he or she had elected to attend a four-year college, may elect to have the award held in trust for a period not to exceed one academic year, except that the commission may extend the period in which the award is held in trust up to a period of three academic years, if, in the commission's

judgment, the individual's rate of academic progress has been as rapid as could be expected for the personal and financial conditions which the individual has encountered. The commission shall, in this case, hold the award in trust, to be granted to the individual upon receipt of his or her request therefor within that period, provided that at the time of making the request the individual meets all the requirements of this chapter. Upon receipt of the request, the commission shall assess or reassess the financial needs of the individual. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. The commission may award to another eligible individual any award being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the commission, to the end that all authorized awards are continually being utilized. Following the first year for which any award is made, the awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

SEC. 8. Section 69539 of the Education Code is amended to read:

69539. A Cal Grant award pursuant to subdivision (c) of Section 69532 shall be utilized for occupational or technical training in any California institution or program which participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant Program. As used in this section, "occupational or technical training" means that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

SEC. 9. Section 69546.5 of the Education Code is repealed.

SEC. 10. Section 69546.5 is added to the Education Code, to read:

69546.5. The Student Aid Commission shall allocate federal state student incentive grant funds among the Cal Grant A, B, and C programs so that the allocations bear the same ratio to each other as do the total appropriations to each program.

SEC. 10.5. Section 69760 of the Education Code is amended to read:

69760. There is hereby established a California Educational Loan Program for postsecondary students, which shall include, but not be limited to, the State Guaranteed Loan Program and the California Loans to Assist Students Program. The program shall be consistent with Title IV of the act of Congress entitled the "Higher Education Act of 1965" (P.L. 89-329) and extensions thereof, the Education Amendments of 1976 (P.L. 94-482), or any similar act of Congress, and the rules and regulations adopted under those acts.

SEC. 11. Section 69769 of the Education Code is amended to read:

69769. The commission shall establish a Loan Study Council. The Loan Study Council shall be comprised of 16 members, appointed by the commission, comprised of representatives of students, postsecondary educational institutions, and private lenders.

SEC. 12. Article 14 (commencing with Section 69790) of Chapter

2 of Part 42 of the Education Code is repealed.

SEC. 13. Chapter 1052 of the Statutes of 1972 is repealed.

CHAPTER 1080

An act to amend Sections 22525, 22646, 22660, and 22662 of, and to add Section 22662.5 to, the Streets and Highways Code, relating to assessments.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 22525 of the Streets and Highways Code is amended to read:

22525. "Improvement" means one or any combination of the following:

(a) The installation or planting of landscaping.

(b) The installation or construction of statuary, fountains, and other ornamental structures and facilities.

(c) The installation or construction of public lighting facilities.

(d) The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

(e) The installation of park or recreational improvements, including, but not limited to, all of the following:

(1) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(2) Lights, playground equipment, play courts, and public restrooms.

(f) The maintenance or servicing, or both, of any of the foregoing.

SEC. 2. Section 22646 of the Streets and Highways Code is amended to read:

22646. The assessments shall be collected at the same time and in the same manner as county taxes are collected, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments, except that assessments levied pursuant to Section 22660 for which bonds are to be issued may be paid within 30 days after the date the county auditor has entered the assessments on the county assessment roll, upon which time the engineer shall make and file with the treasurer a complete list of all unpaid assessments in the manner required by Section 8620.

SEC. 3. Section 22660 of the Streets and Highways Code is

amended to read:

22660. (a) The legislative body may, by resolution, determine that the estimated cost of any of the proposed improvements described in subdivisions (a) to (d), inclusive, of Section 22525 is greater than can be conveniently raised from a single annual assessment and order that the estimated cost shall be raised by an assessment levied and collected in installments over a period not to exceed five fiscal years.

(b) The legislative body may, by resolution, determine that the estimated cost of the proposed improvements described in subdivision (e) of Section 22525 is greater than can be conveniently raised from a single annual assessment and order that the estimated cost of those improvements, other than the costs of maintenance and servicing, be raised by an assessment levied and collected in installments over a period not to exceed 30 years.

(c) The resolution adopted pursuant to subdivision (a) or (b) shall generally describe the proposed improvements, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the maximum amount of each annual installment.

SEC. 4. Section 22662 of the Streets and Highways Code is amended to read:

22662. If a resolution providing for annual installment payments has been adopted, in the resolution or subsequent thereto, the legislative body may do any or a combination of the following:

(a) Provide for the accumulation of the moneys collected from the annual installments in the improvement fund until there is sufficient moneys to pay all or part of the cost of the improvements described in the resolution.

(b) Provide for a temporary advance to the improvement fund from any available and unencumbered funds of the local agency to pay all or part of the cost of the improvements described in the resolution and direct that the advance be repaid from the annual installments levied and collected during the fiscal years designated in the resolution.

(c) Borrow an amount necessary to finance the estimated cost of the proposed improvements. The amount borrowed, except for the amount borrowed pursuant to Section 22662.5, shall not exceed the amount of revenue estimated to be raised from the annual assessments levied over five fiscal years.

SEC. 5. Section 22662.5 is added to the Streets and Highways Code, to read:

22662.5. (a) The legislative body of any local agency may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of the proposed improvements described in subdivision (e) of Section 22525, other than the costs of maintenance and servicing, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)). Division 10 (commencing with Section 8500) shall govern all proceedings

relating to the issuance of those bonds. The pertinent provisions of that division which apply to the legislative body of a city shall also apply to the legislative body of a special district formed to provide park and recreational services.

(b) The resolution shall generally describe the proposed improvements specified in subdivision (e) of Section 22525, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the maximum amount of each annual installment necessary to retire the bonds. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from annual assessments over 30 years.

CHAPTER 1081

An act to add Section 6086 to the Harbors and Navigation Code, relating to the Port San Luis Harbor District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 6086 is added to the Harbors and Navigation Code, to read:

6086. Notwithstanding any other provision of this part, the Port San Luis Harbor District may operate, itself only and not pursuant to a lease agreement with a third party, the portion of its property known as the Port San Luis Trailer Park as a mobilehome park, as defined in Section 798.4 of the Civil Code, until the current occupants of the mobilehome park cease to occupy the park. When any current occupant ceases to occupy his or her mobilehome, the real property on which that occupant's mobilehome is located shall cease to be used as a location for a mobilehome residence. No current occupant of the park shall acquire, or be entitled to acquire, through occupancy or any other means, a transferable or assumable interest in occupancy in the park.

As used in this section, "current occupant" means any individual occupying a mobilehome as a residence in the Port San Luis Trailer Park on the effective date of this section.

Nothing in this section shall be construed to affect a current occupant's right to file a claim against a local public agency as provided in Section 905 of the Government Code.

Nothing in this section shall be construed to allow the use of tide or submerged lands belonging to the Port San Luis Harbor District in any manner inconsistent with the California Constitution or with the public trust.

SEC. 2. The Legislature hereby finds and declares that this act, applicable only to the Port San Luis Harbor District, is necessary because of unique conditions existing within that district. The district acquired property subject to a lease for the operation of a mobilehome trailer park. That park is occupied by many long-time, elderly residents and this act is necessary to avoid displacing those persons. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and that the enactment of Section 6086 of the Harbors and Navigation Code as a special law as provided in this act is necessary for the solution of problems existing within the Port San Luis Harbor District.

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

In order to resolve unique conditions within the Port San Luis Harbor District and to avoid the disruption and displacement of long-time elderly residents of the district, it is necessary that this act take effect immediately.

CHAPTER 1082

An act to amend and supplement the Budget Act of 1984 by adding Item 3790-102-036 thereto, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Item 3790-102-036 is added to the Budget Act of 1984 (Chapter 258, Statutes of 1984), to read:

3790-102-036—For local assistance, Department of Parks and Recreation, payable from the Special Account for Capital Outlay		275,000
Schedule:		
(1) City of Sacramento, Sacramento History Center	275,000	

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

This act provides funds for the Sacramento History Center. The center will be located in Old Sacramento, itself a National Historic Landmark, on a site immediately adjacent to the California State Railroad Museum, one of California's two most popular state parks. In order that this project may be completed at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1083

An act to add Section 1102.5 to the Labor Code, relating to labor.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 1102.5 is added to the Labor Code, to read:

1102.5. (a) No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation or noncompliance with a state or federal regulation.

(b) No employer shall retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation or noncompliance with a state or federal regulation.

(c) This section shall not apply to rules, regulations, or policies which implement, or to actions by employers against employees who violate, the confidentiality of the lawyer-client privilege of Article 3 (commencing with Section 950), the physician-patient privilege of Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, or trade secret information.

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

CHAPTER 1084

An act to amend Section 1256 of the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 1256 of the Unemployment Insurance Code is amended to read:

1256. An individual is disqualified for unemployment compensation benefits if the director finds that he or she left his or her most recent work voluntarily without good cause or that he or she has been discharged for misconduct connected with his or her most recent work.

An individual is presumed to have been discharged for reasons other than misconduct in connection with his or her work and not to have voluntarily left his or her work without good cause unless his or her employer has given written notice to the contrary to the department as provided in Section 1327, setting forth facts sufficient to overcome the presumption. The presumption provided by this section is rebuttable.

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

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse to a place from which it is impractical to commute to the employment.

An individual shall be deemed to have left his or her most recent work with good cause if he or she elects to be laid off in place of an employee with less seniority pursuant to a provision in a collective bargaining agreement that provides that an employee with more seniority may elect to be laid off in place of an employee with less seniority when the employer has decided to lay off employees.

CHAPTER 1085

An act to amend Sections 2200 and 2271 of the Health and Safety Code, relating to pest abatement.

[Approved by Governor September 11, 1984. Filed with Secretary of State September 12, 1984]

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

SECTION 1. Section 2200, as added to the Health and Safety Code by Senate Bill 2162 of the 1983–84 Regular Session of the Legislature, is amended to read:

2200. Except where the context otherwise requires, the following definitions govern construction of this chapter:

(a) "Board" or "district board" refers to the board of trustees of a district.

(b) "City" includes a city and county.

(c) "District" refers to any mosquito abatement district or vector control district formed pursuant to this chapter or pursuant to any law which it supersedes.

(d) "Property" includes water, and the person or agency claiming ownership, title, or right to water or who controls the diversion, delivery, conveyance, or flow of water is responsible for abatement of public nuisances, as specified in this chapter or Chapter 8 (commencing with Section 2800), which are caused by or as a result of diversion, delivery, conveyance, or control.

(e) "Public nuisance" means any of the following:

(1) (A) Any breeding place for mosquitoes, flies, or other vectors of public health importance which exists by reason of any use made of the land on which it is found, or of any artificial change in its natural condition. Presence of immature arthropods of public health importance shall constitute prima facie evidence that a place is a breeding place for arthropods.

(B) If the board determines that an agricultural operation is growing or processing crops or raising fowl or animals in a manner consistent with proper and accepted practices and standards, as established and followed by similar agricultural operations in the same locality, and employing measures for fly control, for manure management, removal, and disposal, and for disposal of agricultural crop waste, which prevent excessive domestic fly larval development and excessive adult fly emergence on the property, then that place shall not be deemed a public nuisance.

(C) As used in this paragraph, "excessive" means the presence of domestic flies associated with agricultural operations, which do all of the following:

(i) Occur in immature stages and as adults in numbers considerably in excess of those found in the surrounding environment.

(ii) Are associated with the design, layout, and management of agricultural operations.

(iii) Disseminate widely from the property.

(iv) Cause detrimental effects on the public health and well-being of a majority of the surrounding population.

(2) Water which is a breeding place for mosquitoes, flies, or other arthropods of public health importance.

(3) The presence of rodents or evidence of rodent activity, such

as rodent droppings, trails, or evidence of feeding activity.

(f) "Vector" means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, other insects, ticks, mites, and rats, but not including any domesticated animal.

SEC. 2. Section 2271 of the Health and Safety Code is amended to read:

2271. (a) Except as otherwise specified in subdivision (b), any breeding place for mosquitoes, flies, or other insects upon any land by reason of any use made of the land on which it is found, or by reason of any artificial change in the land's natural condition, is a public nuisance. The presence of mosquito, fly, or other insect larvae or pupae in any place shall constitute prima facie evidence that the place is a breeding place for mosquitoes, flies, or other insects.

(b) (1) Subdivision (a) does not apply if the board determines that an agricultural operation is growing or processing crops or raising fowl or animals in a manner consistent with proper and accepted practices and standards, as established and followed by similar agricultural operations in the same locality, and employing measures for fly control, for manure management, removal, and disposal, and for disposal of agricultural crop waste, which prevent excessive domestic fly larval development and excessive adult fly emergence on the property.

(2) As used in this subdivision, "excessive" means the presence of domestic flies associated with agricultural operations, which do all of the following:

(A) Occur in immature stages and as adults in numbers considerably in excess of those found in the surrounding environment.

(B) Are associated with the design, layout, and management of agricultural operations.

(C) Disseminate widely from the property.

(D) Cause detrimental effects on the public health and well-being of a majority of the surrounding population.

SEC. 3. Section 1 of this act shall become operative only if Senate Bill 2162 and this bill are both chaptered and this bill is chaptered last and in that case Section 2 of this bill shall not become operative.

CHAPTER 1086

An act to amend Sections 11475.1, 15200.1, and 15200.2 of, and to add Section 11475.3 to, the Welfare and Institutions Code, relating to child support enforcement.

[Approved by Governor September 11, 1984. Filed with Secretaryof State September 12, 1984.]

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

SECTION 1. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction and the spouse (or former spouse) is receiving aid to families with dependent children for a child or children of the marriage or former marriage of the obligated spouse or former spouse. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child and the spouse or former spouse is receiving public assistance. When the child is not receiving public assistance, the district attorney shall take appropriate action to enforce the child support obligation. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services and that spousal support enforcement services are available to those receiving public social services.

To the extent required by federal law, where the child is not receiving public assistance and the district attorney is collecting child support, or where the district attorney is collecting sums owed as a spousal support obligation under other than the state plan as set forth in Section 11475.2, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding therefrom sums to become due in the future. This fee shall be enforced the same as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on the enforcement thereof shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of

support under this section from requesting the collection be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

SEC. 2. Section 11475.3 is added to the Welfare and Institutions Code, to read:

11475.3. (a) The Judicial Council shall solicit comment from district attorneys throughout the state regarding the need for computer compatible family law forms, the current methods of form preparation, and existing word processing or computer systems and their compatibility with computer compatible family law forms.

(b) Commencing on January 1, 1985, the Judicial Council shall conduct a statewide project on the use of computer compatible Judicial Council family law forms. In evaluating the project, the Judicial Council shall consider the comment of district attorneys and other members of the State Bar of California, court clerks, and judges.

(c) The Judicial Council shall report to the Legislature by December 31, 1985, on the results of the project and the feasibility of the expanded use of computer compatible forms.

SEC. 3. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Support Enforcement Incentive Fund, from which the department shall make payments to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7. These funds shall be deposited in the county general fund.

Where more than one county has participated in the enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in the enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.

SEC. 4. Section 15200.2 of the Welfare and Institutions Code is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Interstate Collection Incentive Fund, from which the department shall make payments to California counties and other states, on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7.

The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the support payment.

Where a county makes a collection for another state, the department shall forward any incentive payment received from such state to the county making the collection.

Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.

SEC. 5. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed

in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

To the extent required by federal law, where the child and spouse are not receiving public assistance and the district attorney is collecting support, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding sums to become due in the future. This fee shall be enforced in the same manner as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on its enforcement shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting the collection to be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

SEC. 6. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, amounts from which the department shall make payments to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. In addition, a county may qualify

for an additional incentive payment under Section 15200.7. These funds shall be deposited in the county general fund.

Where more than one county has participated in the enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in the enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.

SEC. 7. Section 15200.2 of the Welfare and Institutions Code is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, amounts from which the department shall make payments to California counties and other states, on any support collections distributed on or after October 1, 1982, regardless of the date of collection, federal incentive funds on the amount received which qualify therefor. In addition, the department shall pay to each county on any support collections distributed on or after October 1, 1982, regardless of the date of collection, a state incentive of 7.5 percent. This amount shall be paid on collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7.

The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the support payment.

Where a county makes a collection for another state, the department shall forward any incentive payment received from such state to the county making the collection.

Any funds paid to a county pursuant to this section, over and above the county's cost of administering a child support enforcement program, shall be used to support the child support enforcement services of the district attorney.

SEC. 8. Section 5 of this bill incorporates amendments to Section 11475.1 of the Welfare and Institutions Code proposed by both this bill and AB 1681. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11475.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1681, in which case Section 1 of this bill shall not become operative.

SEC. 9. Section 6 of this bill incorporates amendments to Section 15200.1 of the Welfare and Institutions Code proposed by both this bill and AB 448. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative before the section of AB 448 which amends

Section 15200.1 of the Welfare and Institutions Code, (2) each bill amends Section 15200.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 448, in which case Section 15200.1 of the Welfare and Institutions Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of the section of AB 448 which amends Section 15200.1 of the Welfare and Institutions Code, at which time Section 6 of this bill shall become operative.

SEC. 10. Section 7 of this bill incorporates amendments to Section 15200.2 of the Welfare and Institutions Code proposed by both this bill and AB 448. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative before the section of AB 448 which amends Section 15200.2 of the Welfare and Institutions Code, (2) each bill amends Section 15200.2 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 448, in which case Section 15200.5 of the Welfare and Institutions Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of the section of AB 448 which amends Section 15200.2 of the Welfare and Institutions Code, at which time Section 7 of this bill shall become operative.

SEC. 11. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 12. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1087

An act to amend Section 11003.4 of the Business and Professions Code, relating to housing.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A "limited-equity housing cooperative" is a corporation which meets the criteria of Section 11003.2 and which also meets the criteria of Section 33007.5 of the Health and Safety Code. Except as provided in subdivision (b), a limited-equity

housing cooperative shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative shall be exempt from the requirements of this chapter if the limited-equity housing cooperative complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the Farmers Home Administration, the National Consumers Cooperative Bank, the California Housing Finance Agency, or the Department of Housing and Community Development, alone or in any combination with each other, or with the city, county, or redevelopment agency in which the cooperative is located, directly finances or subsidizes at least 50 percent of the total construction or development cost; or the real property to be occupied by the cooperative was sold by the Department of Transportation for the development of the cooperative and has a regulatory agreement approved by the Department of Housing and Community Development for the term of the permanent financing, notwithstanding the source of the permanent subsidy or financing.

(2) No more than 10 percent of the total development cost is provided by purchasers of membership shares.

(3) A regulatory agreement has been duly executed between the recipient of the financing or subsidy and one of the federal or state agencies described in paragraph (1) which covers the cooperative for a term of at least as long as the duration of the permanent financing or subsidy, notwithstanding the source of the permanent subsidy or financing. The regulatory agreement shall make provision for at least all of the following:

(A) Assurances for completion of the common areas and facilities to be owned or leased by the limited-equity housing cooperative, unless a construction agreement between the same parties contains written assurances for completion.

(B) Governing instruments for the organization and operation of the housing cooperative by the members.

(C) The ongoing fiscal management of the project by the cooperative, including an adequate budget, reserves, and provisions for maintenance and management.

(D) Distribution of a membership information report to any prospective purchaser of a membership share, prior to purchase of that share. The membership information report shall contain full disclosure of the financial obligations and responsibilities of cooperative membership, the resale of shares, the financing of the cooperative including any arrangements made with any partners, membership share accounts, occupancy restrictions, management arrangements, and any other information pertinent to the benefits, risks, and obligations of cooperative ownership.

(4) The federal or state agency named in paragraph (1) which executes the regulatory agreement shall satisfy itself that the bylaws, articles of incorporation, occupancy agreement, subscription agreement, any lease of the regulated premises, any arrangement

with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) The federal or state agency shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 33007.5 of the Health and Safety Code and the exemption provided by this section.

(c) Any limited-equity cooperative which meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the Department of Real Estate, on a form provided by the department, that an exemption is claimed under this section. The Department of Real Estate shall retain this form for at least four years for statistical purposes.

CHAPTER 1088

An act to add Sections 33191 and 44237 to the Education Code, relating to schools.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 33191 is added to the Education Code, to read:

33191. (a) Commencing October 1, 1985, the affidavit or statement filed with the Superintendent of Public Instruction pursuant to Section 33190 shall, under penalty of perjury, include a provision that the private school requires each new employee having contact with minor pupils and not possessing a valid state teaching credential, to obtain a criminal record summary from the Department of Justice pursuant to the requirements of Section 44237 as a condition of employment.

(b) In the case of any private school where the instructor also serves as the administrator of the school, the affidavit or statement shall be made available to the parents or guardians of all pupils currently enrolled in the school and to any parent or guardian considering whether to enroll his or her child in the school.

SEC. 2. Section 44237 is added to the Education Code, to read:

44237. (a) Pursuant to the requirements of Section 33191, the Department of Justice shall issue a criminal record summary for each new employee having contact with minor pupils in any private school required to file an affidavit or statement with the Superintendent of Public Instruction under Section 33190 and which is not exempt from the requirements of Section 33191.

The criminal record summary shall be issued by the department

subsequent to receiving fingerprints and a request from each new employee and examining criminal records maintained by the Federal Bureau of Investigation and the Department of Justice.

The criminal record summary shall only contain convictions involving any sex crimes, drug crimes, or crimes of violence for new employees having contact with minor pupils. The department shall furnish the information to the employer designated by the requesting employee.

(b) Each new employee shall forward his or her fingerprints and the request for the criminal record summary to the Department of Justice on or before the first day of his or her employment.

(c) As used in this section, the following terms shall have the following definitions

(1) "New employee" means any person hired to work in a private school on or after July 1, 1985, on a regular, paid full-time or regular, paid part-time basis who will have contact with minor pupils.

(2) "Sex crime" means a conviction for any violation or attempted violation of Section 220, 261, 261.5, 264.1, 266, 266j, 267, 273a, 273d, 285, 286, 288, 289, 311.2, 311.3, 311.4, 313.1, 314, 647a, 647b, or 647d of the Penal Code, or commitment as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of the Welfare and Institutions Code.

Out-of-state convictions for any violation or attempted violation of any crime prescribed in this paragraph shall also be deemed a sex crime.

(3) "Drug crime" means a felony conviction for a violation or attempted violation of Division 10 (commencing with Section 11000) of the Health and Safety Code.

(4) "Crime of violence" means a conviction for any of the offenses specified in subdivision (c) of Section 667.5 of the Penal Code, or a violation or attempted violation of Chapter 8 (commencing with Section 236) or Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code.

(d) Any new employee who wishes to have his or her employer consider information relevant to his or her criminal record, such as evidence of rehabilitation, shall be responsible for submitting these facts or documentation to his or her employer.

(e) The Commission on Teacher Credentialing shall send on a monthly basis to each private school a list of all teachers who have had their state teaching credential revoked or suspended. The list shall be identical to the list compiled for public schools in the state. The commission shall also send on a quarterly basis a complete and updated list of all teachers who have had their teaching credentials revoked or suspended, excluding teachers who have had their credentials reinstated, or who are deceased.

(f) The Department of Justice may charge each applicant for a criminal record summary a reasonable fee to cover costs associated with the processing of the criminal record summary. In no event shall the fee exceed the actual costs incurred by the department.

CHAPTER 1089

An act to amend Sections 8 and 105 of the Labor Code, relating to labor.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 12, 1984.]

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

SECTION 1. Section 8 of the Labor Code is amended to read:

8. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required by this code, it shall be made in writing.

Wherever any notice or other communication is required by this code to be mailed by registered mail by or to any person or corporation, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of law.

SEC. 2. Section 105 of the Labor Code is amended to read:

105. (a) The Labor Commissioner shall provide qualified bilingual persons in public contact positions or as interpreters to assist those in such positions to provide information and services in the language of a limited- or non-English-speaking person, with the primary effort being exerted towards the largest segments of the non-English-speaking persons in this state.

(b) The Labor Commissioner shall provide that an interpreter be present at all hearings and interviews where appropriate.

(c) The Labor Commissioner shall prepare and distribute to the public, through its local offices, materials explaining services available in non-English languages, as well as in English. In addition, the commissioner shall prepare and use written materials in non-English languages as well as in English for use by local offices if the local office serves a substantial number of non-English-speaking people, as defined in Section 7296.2 of the Government Code. The commissioner shall prepare and use such complaint processing forms and form letters in the language of non-English speaking people as the commissioner deems necessary and appropriate for the filing, investigation, and resolution of wage claims, giving due consideration to the rights and obligations of all parties. The commissioner may, from time to time, at his or her discretion, eliminate, modify, amend, or add to the complaint processing forms and form letters which are the subject of bilingual or multilingual treatment or application.

CHAPTER 1090

An act to add Section 4418 to the Public Resources Code, relating to forestry.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 4418 is added to the Public Resources Code, to read:

4418. Peace officers designated by the director may expend funds the director deems necessary to purchase evidence and to employ operators to obtain evidence in cases of arson to any property within a state responsibility area as established under Article 3 (commencing with Section 4125) of Chapter 1.

Funds expended pursuant to this section shall be repaid to the peace officer making the expenditure upon claims approved by the director and subject to post audit by the Department of Finance. Claims, when approved, shall be paid out of funds appropriated for the support or use of the department.

SEC. 2. Prior to January 1, 1987, the Director of Forestry shall report to the Senate Natural Resources and Wildlife, the Assembly Natural Resources, the Senate Finance, and the Assembly Ways and Means Committees on the total amount of funds expended pursuant to Section 4418 of the Public Resources Code, the effectiveness of the program in obtaining information about arson, and any recommendations for improving the program.

CHAPTER 1091

An act relating to resource management, and in this connection amending and supplementing the Budget Act of 1984 by amending Item 3340-001-001 thereof, and by repealing Item 3340-101-001 thereof, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Item 3340-001-001 of the Budget Act of 1984 (Chapter 258, Statutes of 1984) is amended to read:

3340-001-001—For support of California Conservation Corps 26,137,000

Schedule:

(a) 10-Training and Work Program:		
(1) 10.10-Orientation and Training Center	2,880,000	
(2) 10.20-Base and Fire Centers	29,187,000	
(3) 10.30-Energy Program	443,000	
(b) 20.01-Administration		2,900,000
(c) 20.02-Distributed Administration		−2,900,000
(d) Reimbursements		−6,373,000

Provisions:

1. The Department of Finance shall separately identify, in supplemental schedules to the 1985–86 Governor's Budget, the amount of corps member salary savings.
2. $140,000 budgeted for automation may be encumbered no sooner than 30 days after the Department of Finance has provided the Joint Legislative Budget Committee with a feasibility report in support of further automation. The feasibility report shall have been approved by the Department of Finance and prepared in accordance with Sections 4921 to 4928, inclusive, of the State Administrative Manual.
3. $690,000 shall be expended for corps conservation and fire protection activities in the East Bay area of northern California, commencing on July 1, 1984.

SEC. 2. Item 3340-101-001 of the Budget Act of 1984 (Chapter 258, Statutes of 1984) is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the moneys appropriated in this act may be available for the 1984–85 fiscal year, commencing July 1, 1984, it is necessary that this act take effect immediately.

CHAPTER 1092

An act to amend Section 13159.6 of, and to add Sections 13112.1 and 13112.2 to, the Health and Safety Code, relating to fire protection.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 13112.1 is added to the Health and Safety Code, to read:

13112.1. Notwithstanding the provisions of Section 1463 of the Penal Code, all fines and forfeitures imposed by or collected in any court of this state, as a result of citations issued by the State Fire Marshal or salaried deputy state fire marshals employed by the State of California, for violations of any provision of this part or regulation made pursuant thereto, shall be deposited, as soon as practicable after the receipt thereof, with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid at least once a month as follows:

(a) One-half to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the California Fire Service Training and Education System Fund, on order of the Controller. At the time of the transmittal, the county auditor shall forward to the Controller, on the form or forms prescribed by the Controller, a record of the imposition, collection, and payments of the fines or forfeitures.

(b) One-half to the county in which the offense was committed for disposition as provided in Section 1463 of the Penal Code.

SEC. 2. Section 13112.2 is added to the Health and Safety Code, to read:

13112.2. All revenue collected pursuant to subdivision (a) of Section 13112.1 shall be deposited in the California Fire Service Training and Education System Fund and shall be available, when appropriated by the Legislature, for the office of the State Fire Marshal to support fire training.

SEC. 3. Section 13159.6 of the Health and Safety Code is amended to read:

13159.6. This article shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because funds are otherwise made available to the local agency or school district sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1093

An act to add Part 6 (commencing with Section 9700) to Division 8 of the Health and Safety Code, relating to pet cemeteries.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Part 6 (commencing with Section 9700) is added to Division 8 of the Health and Safety Code, to read:

PART 6. PET CEMETERIES

9700. The owner of property may dedicate the property to pet cemetery purposes by a notarized dedication recorded on or after January 1, 1985. The dedication document shall specify the length of time for which the dedication is made. Dedicated property shall be held and used exclusively for pet cemetery purposes, unless and until the dedication is removed from all or any part of the property by an order and decree of the superior court of the county in which the property is situated, in a proceeding brought by the pet cemetery owners for the purpose of removing the pet cemetery dedication and upon notice of hearing and proof satisfactory to the court of both of the following:

(a) That no interments were made in, or that all interments have been removed from, that portion of the property from which the dedication is sought to be removed.

(b) That the pet cemetery owners have received written authorization from those persons whose pets have been buried in the cemetery, or their heirs or assignees, to remove the dedication from their respective plots or to disinter the pet for removal to another plot location. The written authorization may or may not be given for legal consideration.

9701. All mortgages, deeds of trust, and other liens of any nature, hereafter contracted, placed, or incurred upon property which has been, and was at the time of the creation or placing of the lien, dedicated as a pet cemetery, or upon property which is afterwards, with the consent of the owner of any mortgage, trust deed, or lien, dedicated to pet cemetery purposes, shall not affect or defeat the dedication to pet cemetery purposes, but the mortgage, trust deed, or other lien is subject and subordinate to that dedication and any and all sales made upon foreclosure are subject and subordinate to the dedication for pet cemetery purposes.

9702. If a dedication is made pursuant to Section 9700, the pet cemetery owners shall charge an endowment maintenance fee to persons whose pets will be buried in the cemetery on and after the date of this act, in addition to any burial fee. This maintenance fee

shall be charged only at the time of the burial and shall be not less than twenty-five dollars ($25). Proceeds from these maintenance fees shall be placed by the pet cemetery owners into an endowment care or similar trust fund, the entirety of which shall be used for the perpetual maintenance of the pet cemetery.

CHAPTER 1094

An act to amend Sections 25502.3, 25502.5, and 25502.7 of, and to repeal Section 25502.4 of, the Government Code, relating to counties.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 25502.3 of the Government Code is amended to read:

25502.3. In counties having a population of less than 200,000, the purchasing agent shall have the duty to engage independent contractors to perform services for the county and the officers thereof, with or without the furnishing of material, where the aggregate cost does not exceed ten thousand dollars ($10,000).

SEC. 2. Section 25502.4 of the Government Code is repealed.

SEC. 3. Section 25502.5 of the Government Code is amended to read:

25502.5. In counties having a population of 200,000 or more the board of supervisors may direct by ordinance the purchasing agent to engage independent contractors to perform services for the county and the officers thereof, with or without the furnishing of material, where the aggregate cost does not exceed twenty-five thousand dollars ($25,000).

The board of supervisors may establish rules and regulations to effectuate the purposes of this section.

SEC. 4. Section 25502.7 of the Government Code is amended to read:

25502.7. Notwithstanding the provisions of Sections 25502.3 and 25502.5, the board of supervisors may, whenever it has proclaimed a local emergency pursuant to Section 8630, direct the purchasing agent to engage independent contractors to perform services related to the local emergency for the county and officers thereof, with or without the furnishing of materials, within the amounts the board of supervisors may establish.

The board of supervisors may establish rules and regulations to effectuate the purposes of this section. Those rules and regulations shall include provisions for informal bidding procedures to the extent that such procedures are feasible under emergency circumstances.

CHAPTER 1095

An act to add Section 22507.9 to the Vehicle Code, relating to parking offenses.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 22507.9 is added to the Vehicle Code, to read:

22507.9. Local authorities may establish a special enforcement unit for the sole purpose of providing adequate enforcement of Section 22507.8 and local ordinances and resolutions adopted pursuant to Section 22511.7.

Local authorities may establish recruitment and employment guidelines which encourage and enable employment of qualified disabled persons in these special enforcement units.

Members of the special enforcement unit may issue notices of parking violation pursuant to Section 41103 for violations of Section 22507.8 and local ordinances adopted pursuant to Section 22511.7. Members of the special enforcement unit shall not be peace officers and shall not make arrests in the course of their official duties, but shall wear distinctive uniforms and badges while on duty. A two-way radio unit, which may utilize police frequencies or citizens' band, may be issued by the local authority to each member of the special enforcement unit for use while on duty.

The local authority may pay the cost of uniforms and badges for the special enforcement unit, and may provide daily cleaning of the uniforms. Additionally, the local authority may provide motorized wheelchairs for use by members of the special unit while on duty, including batteries and necessary recharging thereof. Any motorized wheelchair used by a member of the special enforcement unit while on duty shall be equipped with a single headlamp in the front and a single stoplamp in the rear.

Members of the special enforcement unit may be paid an hourly wage without the compensatory benefits provided other permanent and temporary employees, but shall be entitled to applicable workers' compensation benefits as provided by law. Insurance provided by the local authority for disability or liability of a member of the special enforcement unit shall be the same as for other employees performing similar duties.

Nothing in this section precludes a local authority from using regular full-time employees to enforce this chapter and ordinances adopted pursuant thereto.

This section applies to all counties and cities, including every charter city and city and county.

CHAPTER 1096

An act to add Section 1519.5 to the Code of Civil Procedure, relating to escheat.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 1519.5 is added to the Code of Civil Procedure, to read:

1519.5. Subject to Section 1510, any sums held by a business association that have been ordered to be refunded by a court or an administrative agency including, but not limited to, the Public Utilities Commission, which have remained unclaimed by the owner for more than one year after becoming payable in accordance with the final determination or order providing for the refund, whether or not the final determination or order requires any person entitled to a refund to make a claim for it, escheats to this state.

It is the intent of the Legislature that the provisions of this section shall apply retroactively to all funds held by business associations on or after January 1, 1977, and which remain undistributed by the business association as of the effective date of this act.

Further, it is the intent of the Legislature that nothing in this section shall be construed to change the authority of a court or administrative agency to order equitable remedies.

CHAPTER 1097

An act to add Section 56419.1 to the Government Code, relating to local agencies.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 56419.1 is added to the Government Code, to read:

56419.1. If proceedings are terminated by failure of a majority of voters to confirm a resolution ordering merger or establishment of a subsidiary district, no new proposal for a merger or establishment of a subsidiary district involving the same district may be filed with the commission on or after January 1, 1985, within two years of the date of the resolution adopted by the board of supervisors, pursuant to clause (ii) of Section 56419. However, the commission may waive the provisions of this section if it finds such provisions are

detrimental to the public interest.

CHAPTER 1098

An act to amend Sections 2003 and 8683 of the Fish and Game Code, relating to fish and game.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 2003 of the Fish and Game Code is amended to read:

2003. (a) It is unlawful to offer any prize or other inducement as a reward for the taking of any game birds, mammals, fish, reptiles, or amphibia, excepting trout, striped bass, and black bass pursuant to a permit issued under subdivision (b).

(b) The department, if it finds there would be no detriment to the resource, may, subject to regulations adopted by the commission, issue to any person a permit authorizing that person to offer a prize or other inducement as a reward for the taking of trout, striped bass, or black bass. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. Any permit for trout, but not for black bass or striped bass, issued by the department is subject to the provisions of subdivision (c).

(c) This section does not prohibit any person or nonprofit corporation from giving awards of not to exceed two hundred dollars ($200) in value for each recipient, and does not apply to any person or nonprofit organization conducting what are generally known as frog-jumping contests or fish contests conducted in waters of the Pacific Ocean.

SEC. 2. Section 8683 of the Fish and Game Code is amended to read:

8683. The director shall establish a permit fee as necessary to cover the reasonable cost of issuing gill net and trammel net permits.

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

CHAPTER 1099

An act to amend Section 1253.3 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms, except that the individual is entitled to a retroactive payment of benefits for each week for which benefits are denied solely by reason of this subdivision commencing with the week during which a timely claim for benefits is filed, if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, and if the individual

is otherwise eligible except for the requirement that he or she file a claim for each week benefits are claimed. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (g), if the services are provided to, or on behalf of, an educational institution.

(f) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment made by the educational institution, provided that the offer is not contingent on enrollment, funding, or program changes.

(g) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(h) Subdivisions (b), (c), (d), and (e) do not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(i) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide the following in writing to the individual no later than 30 days before the end of the first of the academic year or term.

A statement which indicates the following:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no

reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible except for the requirement that he or she file a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 2. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms.

However, if the individual was not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimed in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in any such capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (h), if the services are provided to, or on behalf of, an educational institution.

(g) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment made by the educational institution, provided that the offer is not contingent on enrollment, funding, or program changes.

(h) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in

subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(i) Subdivisions (b), (c), (d), and (f) do not apply to nonprofessional workers employed by the Fremont or Riverside campus of the California School for the Deaf, the Fremont campus of the California School for the Blind, or the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno. These nonprofessional workers are not defined as school employees.

(j) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide the following in writing to the individual no later than 30 days before the end of the first of the academic year or term.

A statement which indicates the following:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1253.3 of the Unemployment Insurance Code proposed by both this bill and SB 1671. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 1253.3 of the Unemployment Insurance Code, and (3) this bill is enacted after SB 1671, in which case Section 1253.3 of the Unemployment Insurance Code, as amended by SB 1671, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 1100

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

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. The Department of Transportation shall prepare a report on the public transit farebox ratio requirements and related provisions contained in Sections 99268.1 to 99268.9, inclusive, of the Public Utilities Code. The report shall include all of the following:

(a) A comparison of the farebox ratio requirements for the various operators.

(b) Any adverse impacts on transportation in a county due to the different ratio requirements.

(c) Ways in which the requirements could be adjusted.

(d) The impact of allowing the setting of fares and farebox ratios at the local level.

SEC. 2. The report shall include any unique transportation problems encountered statewide due to the farebox ratio requirements and related provisions contained in Sections 99268.1 to 99268.9, inclusive, of the Public Utilities Code.

SEC. 3. The report required pursuant to Section 1 of this act shall be submitted to the Legislature not later than August 31, 1985.

SEC. 4. (a) In addition to the amount deducted pursuant to Section 7204.4 of the Revenue and Taxation Code, the State Board of Equalization shall deduct an amount sufficient to reimburse the Department of Transportation for its cost in preparing the report pursuant to Section 1 of this act.

(b) The amount shall be specified in the 1986–87 Budget Act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Legislature to be able to make decisions crucial to transportation funding during the 1985–86 Regular Session, it is necessary that this act take effect immediately.

CHAPTER 1101

An act to amend Section 1112 of the Penal Code, relating to evidence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 1112 of the Penal Code is amended to read:

1112. Notwithstanding the provisions of subdivision (d) of Section 28 of Article I of the California Constitution, the trial court shall not order any prosecuting witness, complaining witness, or any other witness, or victim in any sexual assault prosecution to submit to a psychiatric or psychological examination for the purpose of assessing his or her credibility.

SEC. 2. It is not the intent of the Legislature in enacting this provision to suggest or imply that subdivision (d) of Section 28 of Article I of the California Constitution has limited the application of Section 1112 of the Penal Code in any way.

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

Many pending cases demonstrate a need for reaffirmation of evidence rules relating to sex crimes.

CHAPTER 1102

An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

(1) The owner is not organized or operated for profit; provided, that in the case of hospitals, such organization shall not be deemed

to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses shall not have exceeded a sum equivalent to 10 percent of such operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness;

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual;

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose;

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession;

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose;

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes;

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable organization in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. This section shall not be construed to enlarge the college exemption. Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all of the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for nursery school purposes and owned

and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for a noncommercial educational FM broadcast station or an educational television station and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for housing and related facilities for low- and moderate-income elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. 1701q), as amended, or Section 236 of Public Law 90-448 (12 U.S.C. 1715z), and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section. The amendment of this paragraph made at the 1983–84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property which would otherwise be exempt pursuant to the preceding paragraph, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property which is equal to the percentage which the number of low- and moderate-income elderly and handicapped families occupying the property is of the total number of families occupying the property.

As used in this section, "low and moderate income" has the same meaning as the term "persons and families of low or moderate income" as defined by Section 50093 of the Health and Safety Code.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any property tax revenues lost by it under this act.

CHAPTER 1103

An act to add Chapter 3.7 (commencing with Section 1025) to Part 3 of Division 2 of the Labor Code, relating to employee alcoholic rehabilitation.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Chapter 3.7 (commencing with Section 1025) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 3.7. ALCOHOLIC REHABILITATION

1025. Every private employer regularly employing 25 or more employees shall reasonably accommodate any employee who wishes to voluntarily enter and participate in an alcoholic rehabilitation program, provided that this reasonable accommodation does not impose an undue hardship on the employer.

Nothing in this chapter shall be construed to prohibit an employer from refusing to hire, or discharging an employee who, because of the employee's current use of alcohol, is unable to perform his or her duties, or cannot perform the duties in a manner which would not endanger his or her health or safety or the health or safety of others.

1026. The employer shall make reasonable efforts to safeguard the privacy of the employee as to the fact that he or she has enrolled in an alcoholic rehabilitation program.

1027. Nothing in this chapter shall be construed to require an employer to provide time off with pay, except that an employee may use sick leave to which he or she is entitled for the purpose of entering and participating in an alcoholic rehabilitation program.

1028. An employee may file a complaint with the Labor Commissioner if he or she believes that he or she has been denied reasonable accommodation as required by this chapter. Sections 98, 98.1, 98.2, 98.3, 98.4, 98.5, 98.6, and 98.7 shall be applicable to a complaint filed pursuant to this section.

SEC. 2. It is the intent of the Legislature that employers subject to this act reasonably accommodate employees by providing time off necessary to participate in an alcoholic rehabilitation program when this will not impose an undue hardship on the employer. In determining whether providing the necessary time off would impose an undue hardship it is the intent of the Legislature that the size and type of the employer and facility, the nature and cost of the accommodation involved, notice to the employer of the need for the accommodation, and any reasonable alternative means of accommodation be considered.

CHAPTER 1104

An act to add Section 65589.6 to the Government Code, relating to housing.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 65589.6 is added to the Government Code, to read:

65589.6. In any action taken to challenge the validity of a decision by a city, county, or city and county to disapprove a project or approve a project upon the condition that it be developed at a lower density pursuant to Section 65589.5, the city, county, or city and county shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.

CHAPTER 1105

An act to add Section 22239 to the Education Code, and to add Section 20206.3 to the Government Code, relating to public retirement, and making an appropriation therefor.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 22239 is added to the Education Code, to read:

22239. The board shall, pursuant to the state civil service statutes, either contract with, or establish and fill a full-time position for, a person who is experienced and knowledgeable in corporate management issues to monitor each corporation any of whose shares are owned by the system and to advise the board on the voting of the shares owned by the system and on the responses of the system to merger proposals and tender offers.

Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to fiscal years, from the fund, an amount sufficient to pay all costs arising from this section.

SEC. 2. Section 20206.3 is added to the Government Code, to read:

20206.3. The board shall, pursuant to the state civil service statutes, either contract with, or establish and fill a full-time position for, a person who is experienced and knowledgeable in corporate

management issues to monitor each corporation any of whose shares are owned by the system and to advise the board on the voting of the shares owned by the system and on the responses of the system to merger proposals and tender offers.

Notwithstanding Section 13340, there is hereby continuously appropriated, without regard to fiscal years, from the fund, an amount sufficient to pay all costs arising from this section.

CHAPTER 1106

An act to add Section 1015 to the Military and Veterans Code, relating to the Veterans' Home of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 1015 is added to the Military and Veterans Code, to read:

1015. (a) It is the intent of the Legislature that installation of air-conditioning at the hospital and related buildings of the home be given high priority whenever any new construction or reconstruction is done, and that this construction or reconstruction be accelerated so as to accomplish the purposes of this section. The department shall, in this connection, consider whether construction of a new hospital facility at the home may be more cost-effective than renovation of the existing facility. The Master Plan for the Veterans' Home of California construction schedule shall be revised to reflect this acceleration. The department shall submit the revised schedule to the Legislature on or before November 1, 1984. For each additional year of the master plan following the 1984–85 fiscal year, the Governor's Budget shall include an appropriation in an amount necessary to complete all projects relating to the installation of air-conditioning as shown in the revised schedule.

(b) The sum of ninety-one thousand dollars ($91,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of Veterans Affairs for expenditure during the 1984–85 fiscal year for the purposes of subdivision (a) in accordance with the following schedule:

Renovate hospital support services (preliminary plans)	16,000
Hospital wards 1, 2, 3A (SNF) (preliminary plans)	45,000
Section B (ICF)	

(preliminary plans) 30,000

(c) Notwithstanding any other provision of law, the department, through the Office of the State Architect, may prepare and advertise bids for any master plan project in advance of funds being appropriated by the Legislature, but shall not award any contract for construction of the project until construction funds are available and appropriated therefor.

(d) No contract for construction of any project related to the master plan shall be entered into prior to the department's obtaining a written commitment from the federal government to fund either 65 percent of the project cost, as approved by the federal government, or the maximum amount available to the state.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reduce the discomfort and suffering of the aged and disabled veterans residing at the Veterans' Home of California during the hot summer months, it is necessary that this act take effect immediately.

CHAPTER 1107

An act to add Section 49411 to the Education Code, relating to schools.

[Approved by Governor September 12, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 49411 is added to the Education Code, to read:

49411. (a) The State Department of Education, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, shall formulate, on or before July 1, 1985, a listing of chemical compounds used in school programs which includes the potential hazards and estimated shelf life of each compound.

(b) The Superintendent of Public Instruction, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, shall develop guidelines, on or before September 1, 1985, for school districts for the regular removal and disposal of all chemicals whose estimated shelf life has elapsed. Each school district, on or before January 1, 1986, shall certify to the superintendent whether the district is in compliance with the guidelines.

(c) The county superintendent of schools may implement a system for disposing of chemicals from schools within the county or may permit school districts to arrange for the disposal of the chemicals.

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

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1108

An act to add Section 2817 to the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 2817 is added to the Vehicle Code, to read:

2817. Any person who disregards any traffic signal or direction given by a peace officer authorized pursuant to subdivision (d) of Section 70 of the Penal Code to escort funeral processions, if the peace officer is in a peace officer's uniform, and is in the process of escorting a funeral procession, shall be guilty of an infraction and subject to the penalties provided in subdivision (a) of Section 42001.

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

SEC. 3. Section 1 of this bill shall only become operative if (1) both this bill and SB 185 are enacted and become effective on or before January 1, 1985, and (2) SB 185 amends Section 70 of the Penal Code to authorize casual or part-time employment of peace officers in police uniform as private security guards or patrolmen by private employers while off duty.

CHAPTER 1109

An act to amend Sections 29610 and 68073 of the Government Code, and to amend Section 987 of the Penal Code, relating to counties.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 29610 of the Government Code is amended to read:

29610. The expenses of any elected county officer, one marshal of a municipal court chosen by the marshals of the municipal courts, one judge of a justice court chosen by the judges of the justice courts, and one constable chosen by the constables incurred while traveling to and from and while attending the annual convention of his respective association, are county charges which do not require prior approval of the board of supervisors. The board of supervisors may require prior approval by the board of supervisors for any other officer or employee to incur such expenses as county charges.

SEC. 2. Section 68073 of the Government Code is amended to read:

68073. In each county the board of supervisors shall provide suitable rooms for holding the superior, municipal, and justice courts, for the chambers of the judges of these courts and for court attendants, together with sufficient attendants, heat, light, furniture, furnishings, equipment, stationery, supplies, and other personal property, for the rooms and chambers and for the transaction of the business of the courts. Prior to the construction of new court facilities, the board of supervisors shall submit proposed plans to the judge or judges of the affected court for review and recommendation as to the adequacy and standard of design and such review and recommendation shall not be disregarded without reasonable grounds.

If the board of supervisors of any county does not provide suitable rooms for holding the superior, municipal, or justice courts, for the chambers of the judges of those courts and for the court attendants, together with sufficient attendants, furniture, furnishings, heat, light, equipment, stationery, supplies and other personal property, for such rooms and chambers and for transaction of business, the court shall give notice to the board of its particular needs. If the board then fails to provide anything necessary to the conduct of the court's functions, the court may direct the appropriate officers of the county to provide the same. The expenses incurred, certified by the judge or judges to be correct, are a charge against the county treasury, and shall be paid out of the General Fund.

This section shall not be construed as authorizing the county to

supply to the official reporters of the courts Stenograph, Stenotype, or other shorthand machines; nor as authorizing the county to supply to the official reporters of the courts, for use in the preparation of transcripts, typewriters, transcribing equipment, supplies, or other personal property.

SEC. 3. Section 987 of the Penal Code is amended to read:

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

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

The court shall at the first opportunity inform the defendant's trial counsel, whether retained by the defendant or court-appointed, of the additional duties imposed upon trial counsel in any capital case as set forth in paragraph (1) of subdivision (b) of Section 1240.1.

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

(d) In a capital case, the court may appoint an additional attorney as a cocounsel upon a written request of the first attorney appointed. The request shall be supported by an affidavit of the first attorney setting forth in detail the reasons why a second attorney should be appointed. Any such affidavit filed with the court shall be confidential and privileged. The court shall appoint a second attorney when it is convinced by the reasons stated in the affidavit that the appointment is necessary to provide the defendant with

effective representation. If the request is denied, the court shall state on the record its reasons for denial of the request.

SEC. 4. The Legislature recognizes that the appointment of additional counsel for the defense of an indigent defendant rests with the discretion of the court. While courts take into consideration the legal principles and policies appropriate to the issues at hand, the rising costs of trials necessitate the implementation of guidelines which assure the defendant's right to adequate and effective representation, but do not place an unreasonable burden on the county treasury. Therefore, it is the intent of the Legislature in amending Section 987 of the Penal Code to provide additional counsel when the need for that counsel is appropriately documented to the court.

CHAPTER 1110

An act to amend Section 35002 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 35002 of the Vehicle Code is amended to read:

35002. (a) The provisions of this division are inapplicable in the case of any authorized emergency vehicle owned or operated by a governmental agency while being used in responding to and returning from emergency fire calls or while being moved from place to place in anticipation of emergency fire calls.

(b) Any other vehicle owned, operated, or rented by a state agency, county flood control district, or a flood control and water conservation district, while the vehicle is being used in responding to an emergency, may be operated as required with verbal permission from an authorized officer or employee of the agency having jurisdiction of the highways used, if a written permit for that use is obtained pursuant to Section 35780 within three days following the termination of the emergency. As used in this subdivision, "emergency" means a condition which poses an imminent threat of loss of property or a hazard to life, as determined by the public agency charged with responsibility to respond thereto.

(c) Any governmental agency operating an authorized emergency vehicle or other vehicle subject to this section is liable to the governmental agency having jurisdiction of any state or county highway for any damage to the highway or any highway structure caused by the operation of the vehicle of a size or weight of vehicle or load exceeding that specified in this division. The cost of repair of

the damage is a proper charge against the support fund of the governmental agency operating the oversize or overweight vehicle.

(d) Neither the state nor any agency thereof is liable for damage to any highway or highway structure caused by vehicles operated, pursuant to this section, by or on behalf of a local authority or any other local governmental entity.

CHAPTER 1111

An act to add and repeal Sections 51222 and 66474.4 of the Government Code, relating to land use.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 51222 is added to the Government Code, to read:

51222. The Legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this act in parcels large enough to sustain their agricultural use. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 2. Section 66474.4 is added to the Government Code, to read:

66474.4. (a) The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) and that the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use. For purposes of this section, land shall be presumed to be in parcels too small to sustain their agricultural use if the land is (1) less than 10 acres in size in the case of prime agricultural land, or (2) less than 40 acres in size in the case of land which is not prime agricultural land. A legislative body may approve a subdivision with parcels smaller than those specified in this section if the legislative body finds that the parcels can nevertheless sustain their agricultural use, or are subject to a written agreement for joint management pursuant to Section

51230.1, provided that the parcels which are jointly managed total at least 10 acres in size in the case of prime agricultural land or 40 acres in size in the case of land which is not prime agricultural land.

(b) This section shall not apply to land which is subject to a contract when any of the following has occurred:

(1) A local agency formation commission has approved the annexation of the land to a city and the city will not succeed to the contract as provided in Sections 51243 and 51243.5.

(2) Written notice of nonrenewal of the contract has been served as provided in Section 51245.

(3) The board or council has granted tentative approval for cancellation of the contract as provided in Section 51282.

(c) This section shall not be construed as limiting the power of legislative bodies to establish minimum parcel sizes larger than those specified in subdivision (a).

(d) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

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

CHAPTER 1112

An act to amend Section 10001 of the Public Utilities Code, relating to water pollution control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1984 Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 10001 of the Public Utilities Code is amended to read:

10001. "Public utility" as used in this article, means the supply of a municipal corporation alone or together with its inhabitants, or any portion thereof, with water, light, heat, power, sewage collection, treatment, or disposal for sanitary or drainage purposes, transportation of persons or property, means of communication, or means of promoting the public convenience.

SEC. 2. (a) Pursuant to an ordinance adopted by the city council, the City of Norco, or any agency of that city, may authorize,

grant, or enter into a franchise, license, or service agreement for the construction, maintenance, and operation of a privatization project. The franchise, license, or service agreement may authorize the owner or operator of the privatization project to use, or lay and use, sewers and sewerage facilities, pipes, and other structures for collecting, transmitting, and disposing of sewage under, along, across, or upon public streets, highways, alleys, or public properties and easements, regardless of how created.

(b) In addition, the city council may adopt any other ordinance, or take any other action it deems appropriate, to facilitate the successful financing, completion, and operation of the privatization project and shall by ordinance, or as part of the franchise, license, or service agreement, impose any conditions on the privatization project that it deems necessary or advisable to protect the users of the privatization project.

(c) The amounts payable by the users of the privatization project shall not be deemed to be a tax, levy, charge, fee, or assessment imposed by the city or any agency of the city, but shall instead be deemed a charge imposed by the owner or operator of the privatization project.

(d) As used in this section and in Section 3 of this act, "privatization project" means any wastewater or sewerage facility or project that is owned or operated, or both owned and operated, by a corporation or natural person pursuant to a franchise, license, or service agreement with the City of Norco or any agency of that city, pursuant to which services are supplied for the benefit of the city, its residents, or both, any agency of the state, and to not more than four other corporations or persons; and "project" includes, but is not limited to, financing, constructing, repairing, replacing, maintaining, and operating collector systems, pumping stations, treatment plants, and lateral interceptor, and outfall sewers.

SEC. 3. The privatization project in the City of Norco authorized by Section 2 of this act is not a public utility within the meaning of Section 216 of the Public Utilities Code.

SEC. 4. The Legislature finds and declares that Sections 2 and 3 of this act are necessary since special facts and circumstances applicable to the City of Norco, and not generally applicable, make the accomplishment of this purpose impossible by any general law. There exist serious pollution problems in that city arising from the existance of approximately 2,700 individual septic systems that the city is unable to alleviate in any manner other than that authorized under this act. The Legislature further finds and declares that this is the only such situation involved, that the purpose of Sections 2 and 3 are impossible to accomplish by any general law, and that special legislation applicable only to the City of Norco and not generally applicable is therefore necessary.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to facilitate the financing of construction of a wastewater treatment plant, sewer mains, and pumps in the City of Norco at the earliest possible time, thereby abating pollution problems arising from the existence of approximately 2,700 individual septic systems, it is necessary that this act take effect immediately.

CHAPTER 1113

An act to amend Sections 66424.5, 66428, 66452, 66452.6, and 66463.5 of, to add Section 66418.1 to, and to add Chapter 4.5 (commencing with Section 66498.1) to Division 2 of Title 7 of, the Government Code, relating to subdivisions.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. By this enactment, the Legislature intends to accomplish all of the following objectives:

(a) To establish a procedure for the approval of tentative maps that will provide certain statutorily vested rights to a subdivider.

(b) To ensure that local requirements governing the development of a proposed subdivision are established in accordance with Section 66498.1 of the Government Code when a local agency approves or conditionally approves a vesting tentative map. The private sector should be able to rely upon an approved vesting tentative map prior to expending resources and incurring liabilities without the risk of having the project frustrated by subsequent action by the approving local agency, provided the time periods established by this enactment have not elapsed.

(c) To ensure that local agencies have maximum discretion, consistent with Section 66498.1 of the Government Code, in the imposition of conditions on any approvals occurring subsequent to the approval or conditional approval of the vesting tentative map, so long as that discretion is not exercised in a manner which precludes a subdivider from proceeding with the proposed subdivision.

SEC. 2. Section 66418.1 is added to the Government Code, to read:

66418.1. "Development" means the uses to which the land which is the subject of a map shall be put, the buildings to be constructed on it, and all alterations of the land and construction incident thereto.

SEC. 3. Section 66424.5 of the Government Code is amended to read:

66424.5. (a) "Tentative map" refers to a map made for the purpose of showing the design and improvement of a proposed subdivision and the existing conditions in and around it and need not

be based upon an accurate or detailed final survey of the property.

(b) "Vesting tentative map" refers to a map which meets the requirements of subdivision (a) and Section 66452.

SEC. 4. Section 66428 of the Government Code is amended to read:

66428. Local ordinances may require a tentative map where a parcel map is required by this chapter. A parcel map shall be required for subdivisions as to which a final or parcel map is not otherwise required by this chapter, unless the preparation of such parcel map is waived by local ordinance as provided in this section. A parcel map shall not be required for: (1) subdivisions of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing), or (2) land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map.

A local agency shall, by ordinance, provide a procedure for waiving the requirement for a parcel map, imposed by this division, including the requirements for a parcel map imposed by Section 66426. The procedure may include provisions for waiving the requirement for a tentative and final map for the construction of a condominium project on a single parcel. The ordinance shall require a finding by the legislative body or advisory agency, that the proposed division of land complies with such requirements as may have been established by this division or local ordinance enacted pursuant thereto as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this division or local ordinance enacted pursuant thereto. In any case, where the requirement for a parcel map is waived by local ordinance pursuant to provisions of this section, a tentative map may be required by local ordinance.

If a local ordinance does not require a tentative map where a parcel map is required by this division, the subdivider shall have the option of submitting a tentative map or if he or she desires to obtain the rights conferred by Chapter 4.5 (commencing with Section 66498.1), a vesting tentative map.

SEC. 5. Section 66452 of the Government Code is amended to read:

66452. (a) A tentative map shall be filed with the clerk of the advisory agency or, if there is no advisory agency, with the clerk of the legislative body, or with any other officer or employee of the local agency as may be designated by local ordinance.

(b) A vesting tentative map shall be filed and processed in the same manner as a tentative map except as otherwise provided by this

division or by a local ordinance adopted pursuant to this division.

(c) At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words "Vesting Tentative Map."

SEC. 6. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after such additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a) shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map if a stay of the time period is approved by the local agency pursuant to this section. Within 10 days of the service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's

application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period as provided by ordinance but shall not be less than one year or more than two years beyond the recording of the final map . Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from the date that a complete application is filed. Any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 7. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's

application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided, however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a) shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map if a stay of the time period is approved by the local agency pursuant to this section. Within 10 days of the service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (g) and (h) of Section 66452.6 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (g) and (h) of Section 66452.6 shall be determined from the recordation of the parcel map instead of the final map.

SEC. 8. Chapter 4.5 (commencing with Section 66498.1) is added to Division 2 of Title 7 of the Government Code, to read:

CHAPTER 4.5. DEVELOPMENT RIGHTS

66498.1. (a) Whenever a provision of this division requires that a tentative map be filed, a vesting tentative map may instead be filed.

(b) When a local agency approves or conditionally approves a

vesting tentative map, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section 66474.2. However, if Section 66474.2 is repealed, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

(c) Notwithstanding subdivision (a), the local agency may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required, in order to comply with state or federal law.

(d) The rights conferred by this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map. If the final map is approved, the rights conferred by this section shall be subject to the periods of time set forth in subdivisions (g) and (h) of Section 66452.6.

66498.2. Any time prior to the expiration of the vesting tentative map pursuant to subdivisions (g) and (h) of Section 66452.6 or subdivision (g) of Section 66463.5 the subdivider, or his or her assignee, may apply for an amendment to the vesting tentative map.

66498.3. (a) Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning ordinance in existence at that time, that inconsistency shall be noted on the map. The local agency may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding Section 66498.1, confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved.

(b) The rights conferred by this section shall be for the time periods set forth in subdivisions (g) and (h) of Section 66452.6.

66498.4. Notwithstanding any provision of this chapter, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in subdivision (a) of Section 66498.1 and Section 66498.3, and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.

66498.5. If a subdivider does not seek the rights conferred by this chapter, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

66498.6. (a) This chapter does not enlarge, diminish, or alter the types of conditions which may be imposed by a local agency on a development, nor in any way diminish or alter the power of local agencies to protect against a condition dangerous to the public health or safety.

(b) The rights conferred by this chapter shall relate only to the imposition by local agencies of conditions or requirements created and imposed by local ordinances. Nothing in this chapter removes, diminishes, or affects the obligation of any subdivider to comply with the conditions and requirements of any state or federal laws, regulations, or policies and does not grant local agencies the option to disregard any state or federal laws, regulations, or policies.

66498.7. This chapter applies only to residential developments.

66498.8. (a) On or before January 1, 1986, every local agency shall establish procedures, by ordinance or resolution, necessary for the implementation of this chapter.

(b) The local agency may charge subdividers who file vesting tentative maps a fee in an amount sufficient to recover the direct costs associated with establishing and adopting those procedures.

(c) This section shall become operative January 1, 1985.

SEC. 10. Sections 1 to 9, inclusive, of this act shall become operative January 1, 1986, except Section 66498.8 of the Government Code, which shall become operative January 1, 1985.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1114

An act to amend Sections 1802.1, 1802.2, 2982, and 2985.7 of the Civil Code, relating to vehicles.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 1802.1 of the Civil Code is amended to read:

1802.1. "Goods" means tangible chattels bought for use primarily for personal, family or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold or leased with

such a vehicle if sold under a contract governed by Section 2982 or leased under a contract governed by Section 2985.7.

SEC. 2. Section 1802.2 of the Civil Code is amended to read:

1802.2. "Services" means work, labor and services, for other than a commercial or business use, including services furnished in connection with the sale or repair of goods as defined in Section 1802.1 or furnished in connection with the repair of motor vehicles (except for service contracts as defined by subdivision (p) of Section 2981 which are sold in conjunction with the sale or lease of a vehicle required to be registered under the Vehicle Code) or in connection with the improvement of real property or the providing of insurance, but does not include the services of physicians or dentists, nor services for which the tariffs, rates, charges, costs or expenses, including in each instance the deferred payment price, are required by law to be filed with and approved by the federal government or any official, department, division, commission or agency of the United States.

SEC. 3. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Taxes imposed on the sale.

(E) The amount charged for a service contract.

(F) The total cash price, which is the sum of subparagraphs (A) to (E), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as therein expressly provided.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other

than actuarial, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice, in at least 8-point bold type if the contract is printed, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment

included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) The dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), 1 1/6 percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900), 5/6 of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed one thousand six hundred fifty dollars ($1,650), and 13/24 of 1 percent on that portion of the unpaid balance which exceeds one thousand six hundred fifty dollars ($1,650), or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract

an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by

subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisified. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that such fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

SEC. 4. Section 2985.7 of the Civil Code is amended to read:

2985.7. (a) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(b) "Lessor" includes "bailor" and is a person who is engaged in the business of leasing, offering to lease or arranging the lease of a motor vehicle under a lease contract.

For the purpose of this subdivision, "person" means an individual, partnership, corporation, estate, trust, cooperative, association or any other legal entity.

(c) "Lessee" includes "bailee" and is a natural person who leases, offers to lease or is offered the lease of a motor vehicle under a lease contract.

(d) "Lease contract" means any contract for or in contemplation of the lease or bailment for the use of a motor vehicle, and the purchase of services incidental thereto, by a natural person for a term exceeding four months, primarily for personal, family or household purposes, whether or not it is agreed that the lessee bear the risk of the motor vehicle's depreciation. Lease contract does not include a lease for agricultural, business or commercial purposes, or to a government or governmental agency or instrumentality.

SEC. 5. The disclosure required by subparagraph (C) of paragraph (1) of subdivision (a) of Section 2982 of the Civil Code, as amended by Section 3 of this act, shall not be mandatory until July 1, 1985.

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

CHAPTER 1115

An act to amend Section 11349.7 of the Government Code, relating to administrative regulations.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 11349.7 of the Government Code is amended to read:

11349.7. Every agency subject to the provisions of this chapter shall undertake a review of all regulations administered by it as of June 30, 1980, in accordance with the following:

(a) On or before December 31, 1980, each agency shall transmit to the Office of Administrative Law a plan for the review of all regulations it is administering. The plan shall be prepared in the manner prescribed by the office and shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations, personnel required to evaluate all regulations, and such other information required by the office.

Time schedules shall further identify separate bodies of regulations within each title of the California Administrative Code which shall be evaluated by January 31 of each year. Review of each title shall be completed no later than the date specified in Section 11349.8.

(b) The Office of Administrative Law shall have final authority to

determine the time allowed each agency for review of its regulations.

(c) All regulations shall be reviewed in accordance with the standards set forth in Section 11349.1.

(d) The Office of Administrative Law shall, on or before April 1, 1981, file with the Governor, the Senate Committee on Rules and the Speaker of the Assembly a master plan for regulation review. The master plan shall establish specific dates by which each agency shall have complied with this section, including interim review goals to be met each year in accordance with subdivision (a) of this section.

The office shall periodically publish in the California Administrative Notice Register a schedule for the review of existing bodies of regulations by each agency.

(e) The amount required to implement this section shall be included as part of the budget of each agency in the first Governor's Budget sent to the Legislature following the effective date of this section and shall be updated in each succeeding budget as appropriate.

(f) The Office of Administrative Law shall present to the Governor and the Legislature on January 31 of each year a report on the progress of each agency in complying with this section. The office may, in addition, make periodic recommendations directly to the Legislature for the repeal or amendment of statutory provisions that affect the operations of regulatory agencies.

(g) Within six months following the date when a regulation has been reviewed by a state agency and a Statement of Review Completion has been submitted to the office in accordance with time schedules adopted pursuant to this section the office, on its own motion or upon the petition of any interested person in keeping with the requirements of Section 11347, may initiate the review of any regulation, group of regulations, or series of regulations. The office may request the agency which chose not to repeal the regulation to forward to it any information on which it relied in reaching its decision. Any such request shall be answered within 14 calendar days of its receipt.

The Office of Administrative Law shall publish each Statement of Review Completion submitted to it in the California Administrative Notice Register. The office shall consider all written comments submitted to it by the public within 45 days of the date of the publication of the Statement of Review Completion in the California Administrative Notice Register.

If a state agency reports in a Statement of Review Completion that it will amend or repeal a regulation, the amendment or repeal shall be completed and submitted to the office within six months of the submission of the Statement of Review Completion, unless that period is extended by the office upon a showing of good cause.

If a state agency, in conjunction with its review of existing regulations pursuant to this section, submits a proposed adoption, amendment or repeal of a regulation to the office, the time for approval or disapproval of that proposed adoption, amendment, or

repeal shall also be six months from the date it is submitted to the office.

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, or that an agency has failed to meet the provisions of this chapter, the Office of Administrative Law shall order the adopting agency to show cause why the regulation should not be repealed. In issuing such an order, the Office of Administrative Law shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1, or the reasons for its determination that the agency failed to meet the provisions of this chapter. The reasons for its determination shall be made available to the public. The office shall also publish its order and the reasons therefor in the California Administrative Notice Register. In the case of a regulation for which no, or inadequate, information relating to its necessity can be furnished by the adopting agency, the order shall specify the information which the Office of Administrative Law requires to make its determination.

(i) No later than 60 days following receipt of an order to show cause why a regulation should not be repealed, the agency shall respond in writing to the Office of Administrative Law. Upon written application by the agency, the office may extend the time for an additional 30 days.

(j) (1) The Office of Administrative Law shall determine by April 30, 1985, whether all regulations for which orders to show cause were issued prior to December 31, 1984, meet the standards set forth in subdivision (a) of Section 11349.1. If the office does not make a determination by April 30, 1985, with respect to any regulation for which an order to show cause was issued and a response received prior to December 31, 1984, the regulation shall be deemed to meet the standards set forth in subdivision (a) of Section 11349.1. The office shall report to the Legislature no later than May 31, 1985, the number of regulations for which the office failed to make a determination and which were thus deemed to meet the standards set forth in subdivision (a) of Section 11349.1 and the reasons why the office failed to make those determinations.

(2) The Office of Administrative Law shall review and consider all information submitted by the agency in a timely response to the order to show cause why the regulation should not be repealed, and determine whether the regulation meets the standards set forth in Section 11349.1. The office shall make this determination within 60 days of receipt of an agency's response to the order to show cause. If the office does not make a determination within 60 days of receipt of an agency's response to the order to show cause, the regulation shall be deemed to meet the standards set forth in subdivision (a) of Section 11349.1. In making this determination, the office shall also review any written comments submitted to it by the public within 30 days of the publication of the order to show cause in the California Administrative Notice Register. During the period of review and

consideration, the information available to the office relating to each regulation for which the office has issued an order to show cause shall be made available to the public. The office shall notify the adopting agency within two working days of the receipt of information submitted by the public regarding a regulation for which an order to show cause has been issued. If the Office of Administrative Law determines that a regulation fails to meet the standards, it shall prepare a statement specifying the reasons for its determination. The statement shall be delivered to the adopting agency, the Legislature, and the Governor and shall be made available to the public and the courts. Thirty days after delivery of the statement required by this subdivision the Office of Administrative Law shall prepare an order of repeal of the regulation and shall transmit it to the Secretary of State for filing.

(k) The Governor, within 30 days after the office has delivered the statement specifying the reasons for its determination to repeal, as required by subdivision (j), may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect. Notice of the Governor's action and the reasons therefor shall be published in the California Administrative Notice Register.

The Governor shall transmit to the Rules Committees of both houses of the Legislature a statement of reasons for overruling the decision of the office, plus any other information that may be requested by either of the Rules Committees.

(*l*) In the event that the office orders the repeal of a regulation, it shall publish the order and the reasons therefor in the California Administrative Notice Register.

(m) Notwithstanding any other subdivision of this section, the Office of Administrative Law, at the request of any standing, select, or joint committee of the Legislature, shall initiate a priority review of any regulation, group of regulations, or series of regulations which the committee believes does not meet the standards set forth in Section 11349.1. A review pursuant to this subdivision may be made at any time and shall be made without regard to the master plan review schedule in subdivision (d), or to the sequence for reviewing individual titles of the California Administrative Code as required by Section 11349.8.

The Office of Administrative Law shall notify interested persons and shall publish in the California Administrative Notice Register that a priority review has been requested, shall consider the written comments submitted by interested persons, and shall complete each priority review made pursuant to this subdivision within 90 calendar days of the receipt of the committee's written request. During the period of any priority review made pursuant to this subdivision, all information available to the office relating to the priority review shall be made available to the public. In the event that the Office of Administrative Law determines that a regulation does not meet the standards set forth in Section 11349.1, it shall order the adopting

agency to show cause why the regulation should not be repealed and shall proceed to seek repeal of the regulation as provided by this section.

(n) The power of a court to invalidate a regulation shall not be altered or barred by the fact that the office has not ordered the repeal of a regulation pursuant to this section. The procedure adopted by this section allowing the office to order the repeal of a regulation shall not be considered an exhaustible administrative remedy.

SEC. 2. Section 11349.7 of the Government Code is amended to read:

11349.7. Every agency subject to the provisions of this chapter shall undertake a review of all regulations administered by it as of June 30, 1980, in accordance with the following:

(a) On or before December 31, 1980, each agency shall transmit to the Office of Administrative Law a plan for the review of all regulations it is administering. The plan shall be prepared in the manner prescribed by the office and shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations, personnel required to evaluate all regulations, and such other information required by the office.

Time schedules shall further identify separate bodies of regulations within each title of the California Administrative Code which shall be evaluated by January 31 of each year. Review of each title shall be completed no later than the date specified in Section 11349.8.

(b) The Office of Administrative Law shall have final authority to determine the time allowed each agency for review of its regulations.

(c) All regulations shall be reviewed in accordance with the standards set forth in Section 11349.1.

(d) The office shall periodically publish in the California Administrative Notice Register a schedule for the review of existing bodies of regulations by each agency.

(e) The amount required to implement this section shall be included as part of the budget of each agency in the first Governor's Budget sent to the Legislature following the effective date of this section and shall be updated in each succeeding budget as appropriate.

(f) The Office of Administrative Law shall present to the Governor and the Legislature on January 31 of each year a report on the progress of each agency in complying with this section. The office may, in addition, make periodic recommendations directly to the Legislature for the repeal or amendment of statutory provisions that affect the operations of regulatory agencies.

(g) Within six months following the date when a regulation has been reviewed by a state agency and a Statement of Review Completion has been submitted to the office in accordance with time schedules adopted pursuant to this section the office, on its own motion or upon the petition of any interested person in keeping with the requirements of Section 11347, may initiate the review of any

regulation, group of regulations, or series of regulations. The office may request the agency which chose not to repeal the regulation to forward to it any information on which it relied in reaching its decision. Any such request shall be answered within 14 calendar days of its receipt.

The Office of Administrative Law shall publish each Statement of Review Completion submitted to it in the California Administrative Notice Register. The office shall consider all written comments submitted to it by the public within 45 days of the date of the publication of the Statement of Review Completion in the California Administrative Notice Register.

If a state agency reports in a Statement of Review Completion that it will amend or repeal a regulation, the amendment or repeal shall be completed and submitted to the office within six months of the submission of the Statement of Review Completion, unless that period is extended by the office upon a showing of good cause.

If a state agency, in conjunction with its review of existing regulations pursuant to this section, submits a proposed adoption, amendment or repeal of a regulation to the office, the time for approval or disapproval of that proposed adoption, amendment, or repeal shall also be six months from the date it is submitted to the office.

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, or that an agency has failed to meet the provisions of this chapter, the Office of Administrative Law shall order the adopting agency to show cause why the regulation should not be repealed. In issuing such an order, the Office of Administrative Law shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1, or the reasons for its determination that the agency failed to meet the provisions of this chapter. The reasons for its determination shall be made available to the public. The office shall also publish its order and the reasons therefor in the California Administrative Notice Register. In the case of a regulation for which no, or inadequate, information relating to its necessity can be furnished by the adopting agency, the order shall specify the information which the Office of Administrative Law requires to make its determination.

(i) No later than 60 days following receipt of an order to show cause why a regulation should not be repealed, the agency shall respond in writing to the Office of Administrative Law. Upon written application by the agency, the office may extend the time for an additional 30 days.

(j) (1) The Office of Administrative Law shall determine by April 30, 1985, whether all regulations for which orders to show cause were issued prior to December 31, 1984, meet the standards set forth in subdivision (a) of Section 11349.1. If the office does not make a determination by April 30, 1985, with respect to any regulation for which an order to show cause was issued and a response received

prior to December 31, 1984, the regulation shall be deemed to meet the standards set forth in subdivision (a) of Section 11349.1. The office shall report to the Legislature no later than May 31, 1985, the number of regulations for which the office failed to make a determination and which were thus deemed to meet the standards set forth in subdivision (a) of Section 11349.1 and the reasons why the office failed to make such determinations.

(2) The Office of Administrative Law shall review and consider all information submitted by the agency in a timely response to the order to show cause why the regulation should not be repealed, and determine whether the regulation meets the standards set forth in Section 11349.1. The office shall make this determination within 60 days of receipt of an agency's response to the order to show cause. If the office does not make a determination within 60 days of receipt of an agency's response to the order to show cause, the regulation shall be deemed to meet the standards set forth in subdivision (a) of Section 11349.1. In making this determination, the office shall also review any written comments submitted to it by the public within 30 days of the publication of the order to show cause in the California Administrative Notice Register. During the period of review and consideration, the information available to the office relating to each regulation for which the office has issued an order to show cause shall be made available to the public. The office shall notify the adopting agency within two working days of the receipt of information submitted by the public regarding a regulation for which an order to show cause has been issued. If the Office of Administrative Law determines that a regulation fails to meet the standards, it shall prepare a statement specifying the reasons for its determination. The statement shall be delivered to the adopting agency, the Legislature, and the Governor and shall be made available to the public and the courts. Thirty days after delivery of the statement required by this subdivision the Office of Administrative Law shall prepare an order of repeal of the regulation and shall transmit it to the Secretary of State for filing.

(k) The Governor, within 30 days after the office has delivered the statement specifying the reasons for its determination to repeal, as required by subdivision (j), may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect. Notice of the Governor's action and the reasons therefor shall be published in the California Administrative Notice Register.

The Governor shall transmit to the Rules Committees of both houses of the Legislature a statement of reasons for overruling the decision of the office, plus any other information that may be requested by either of the Rules Committees.

(*l*) In the event that the office orders the repeal of a regulation, it shall publish the order and the reasons therefor in the California Administrative Notice Register.

(m) Notwithstanding any other subdivision of this section, the

Office of Administrative Law, at the request of any standing, select, or joint committee of the Legislature, shall initiate a priority review of any regulation, group of regulations, or series of regulations which the committee believes does not meet the standards set forth in Section 11349.1. A review pursuant to this subdivision may be made at any time and shall be made without regard to the sequence for reviewing individual titles of the California Administrative Code as required by Section 11349.8.

The Office of Administrative Law shall notify interested persons and shall publish in the California Administrative Notice Register that a priority review has been requested, shall consider the written comments submitted by interested persons, and shall complete each priority review made pursuant to this subdivision within 90 calendar days of the receipt of the committee's written request. During the period of any priority review made pursuant to this subdivision, all information available to the office relating to the priority review shall be made available to the public. In the event that the Office of Administrative Law determines that a regulation does not meet the standards set forth in Section 11349.1, it shall order the adopting agency to show cause why the regulation should not be repealed and shall proceed to seek repeal of the regulation as provided by this section.

(n) The power of a court to invalidate a regulation shall not be altered or barred by the fact that the office has not ordered the repeal of a regulation pursuant to this section. The procedure adopted by this section allowing the office to order the repeal of a regulation shall not be considered an exhaustible administrative remedy.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11349.7 of the Government Code proposed by both this bill and AB 2399. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11349.7 of the Government Code, and (3) this bill is enacted after AB 2399, in which case Section 1 of this bill shall not become operative.

CHAPTER 1116

An act to amend Sections 224s, 226, 226b, 226c, 226.3, 226.4, 226.6, 226.7 and 226.8 of the Civil Code, to amend Sections 16100, 16122, and 16140 of, to add Sections 16142.1, 16143, 16143.1, 16143.2, 16144, 16145, and 16146 to, and to repeal and add Sections 16141 and 16142 of, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 224s of the Civil Code is amended to read:

224s. (a) No agency shall place a child for adoption unless a written medical report on the child's medical background, and if available, so far as ascertainable, the medical background of the child's birth parents, has been submitted to the prospective adopting parents and the prospective adoptive parents have acknowledged in writing the receipt of such report.

The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life.

In cases of adoption in which no agency licensed to place children for adoption is a party the report shall be made by the State Department of Social Services or delegated county agency as part of the study required by Section 226.2. The report shall be submitted to the prospective adopting parents who shall acknowledge its receipt in writing.

(b) The State Department of Social Services shall adopt regulations specifying the form and content of the report required by this section. In addition to any other material that may be required by the department, the form shall include inquiries designed to elicit information on any illness, disease, or defect of a genetic or hereditary nature. All licensed adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to adoptees or adoptive parents of pertinent medical information reported to the department or the licensed agency, upon the request of the person reporting the medical information.

(c) The requirements of this section shall not apply to stepparent adoptions.

SEC. 1.5. Section 226 of the Civil Code is amended to read:

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Services at Sacramento in writing of the pendency of the action, of any subsequent action taken, and of the date on which an interlocutory decree has become a final decree of adoption. The notification shall not be required where the petition is by a stepparent, where one natural or adoptive parent retains his or her custody and control of the child. In all cases in which consent is required, except in the case of an adoption by a stepparent where one natural or adoptive parent retains his or her custody and control of the child, unless an agency licensed by the State Department of Social Services to find homes for children and place children in homes for adoption joins in the petition for adoption, the petition shall contain an allegation that the petitioners will file promptly with

the department, the county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition so filed shall not, however, affect the jurisdiction of the court to proceed, nor shall it have heretofore affected the jurisdiction of any court to have proceeded, upon the petition omitting the allegation, in any manner provided in this chapter or otherwise, nor shall the omission have affected or affect the validity of any decree of adoption or other order heretofore or hereafter made by any court with respect to a petition omitting the allegation.

The caption of the petition for adoption of a minor shall contain the name or names of the petitioners but shall not contain the name of the minor. The petition shall contain the sex and date of birth of the minor. The name that the minor had prior to adoption shall appear in the petition or, in the case where a licensed adoption agency joins in the petition, the name may appear in the joinder signed by the adoption agency. The decree of adoption shall contain the adopted name of the minor but shall not contain the name that the minor had prior to adoption.

SEC. 2. Section 226b of the Civil Code is amended to read:

226b. Whenever, in any adoption proceeding, the petitioners desire to withdraw the petition for the adoption or to dismiss the proceeding, the clerk of the court in which the proceeding is pending shall immediately notify the State Department of Social Services of such action. The State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, shall file a full report with the court recommending a suitable plan for the child in every such case where the petitioners desire to withdraw the petition for the adoption or where the department, the county agency, or licensed private adoption agency recommends that the petition for adoption be denied and shall appear before the court for the purpose of representing the child. Notwithstanding such withdrawal or dismissal by the petitioners, the court may retain jurisdiction over the child for the purpose of making such order or orders for its custody as the court may deem to be in the best interests of the child.

In any adoption proceeding in which the parent has refused to give the required consent or in which the reason or cause for the withdrawal of the petition or dismissal of the proceeding is the withdrawal of the consent of the natural parent or parents, the court shall order at the hearing the child restored to the care and custody of the natural parent.

SEC. 3. Section 226c of the Civil Code is amended to read:

226c. At the hearing, if the court sustains the recommendation that the child be removed from the home of petitioners because the agency has recommended denial or the petitioners desire to

withdraw the petition or the court dismisses the petition and does not return him to his parents, the court shall commit the child to the care of the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, whichever agency made the recommendation, for that agency to arrange adoptive placement or to make a suitable plan. In those counties not covered by a licensed county adoption agency, the county welfare department shall act as the agent of the State Department of Social Services and shall provide care for the child in accordance with rules and regulations established by the department.

SEC. 4. Section 226.3 of the Civil Code is amended to read:

226.3. In all cases in which the consent of the natural parent or parents is not necessary and an agency licensed to place children for adoption is not a party to the petition, the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the superior court of the county in which the petition is filed. Such consent shall not be given unless the child's welfare will be promoted by the adoption.

SEC. 5. Section 226.4 of the Civil Code is amended to read:

226.4. If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of the period granted by the court, the State Department of Social Services, the licensed county adoption agency or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, fails or refuses to accept the consent of the natural parent or parents to the adoption, or if the department or agency fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from the failure or refusal to the superior court of the county in which the petition is filed, in which event the clerk shall immediately notify the State Department of Social Services of the appeal and the department or agency shall within 10 days file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the natural parent. After the filing of the findings, the court may, if it deems that the welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of the department or agency to consent thereto, grant the petition without the consent.

SEC. 6. Section 226.6 of the Civil Code is amended to read:

226.6. It shall be the duty of the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to

provide intercountry adoption services, to investigate the proposed adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption the report shall be filed immediately. The court may allow such additional time for the filing of said reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for such petitioner or petitioners to be heard with respect to the request for additional time. The report required of the State Department of Social Services or of the licensed county adoption agency may be waived by the department in all cases in which an agency, licensed by the State Department of Social Services to place children in homes for adoption, is a party or joins in the petition for adoption, or in an intercountry adoption in which the placement was made by a licensed private agency. Such waiver may be issued by the department at any time, either before or after the filing of the petition for adoption.

SEC. 7. Section 226.7 of the Civil Code is amended to read:

226.7. Whenever any report or findings are submitted to the court by the State Department of Social Services, or by a licensed county or private adoption agency under any provision of the preceding section, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner.

SEC. 8. Section 226.8 of the Civil Code is amended to read:

226.8. If the findings of the State Department of Social Services or the licensed county or private adoption agency are that the home of the petitioners is not suitable for the child or that the required consents are not available and it recommends that the petition be denied, or if the petitioners desire to withdraw the petition, and it recommends that the petition be denied, the county clerk upon receipt of the report of the State Department of Social Services or the licensed county or private adoption agency shall immediately refer it to the superior court for review.

Upon receipt of such reports the court shall set a date for a hearing of the petition and shall give reasonable notice of such hearing to the agency, the petitioners, and the natural parents by certified mail to the address of each as shown in the proceeding.

The department or the county or private agency licensed to perform intercountry adoptions shall appear to represent the child.

SEC. 9. Section 16100 of the Welfare and Institutions Code is amended to read:

16100. Any county may apply for, and the department may issue pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code to any county agency designated by

the county making the application, a license to perform the home-finding and placement functions, to investigate, examine, and make reports upon petitions for adoption filed in the superior court, to act as a placement agency in the placement of children for adoption, to accept relinquishments for adoption, and to perform such other functions in connection with adoption as the department deems necessary, or to do any of them. Nothing in this section shall be construed to authorize licensed county adoption agencies to provide intercountry adoption services.

In order to extend the services of county adoption agencies to the maximum number of counties practicable within the limits of funds appropriated therefor, the department may license a county adoption agency to operate in such other counties in the general area of the agency as it deems conducive to the effective and efficient administration of the adoption program.

A license issued to a county agency pursuant to this section constitutes the holder thereof a "county adoption agency" and the holder shall be deemed to be an "organization" within the meaning of this code and of Chapter 2 (commencing with Section 221) of Title 2 of Part 3 of Division 1 of the Civil Code.

SEC. 10. Section 16122 of the Welfare and Institutions Code is amended to read:

16122. From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of aid to adoption programs for hard-to-place children, less the amount of fees received by such agencies from adoptive parents. Such agencies shall be reimbursed for the placement of hard-to-place children in an amount not to exceed two thousand dollars ($2,000) per placement. Nothing in this section shall be construed to authorize reimbursement to private agencies for intercountry adoption services.

SEC. 11. Section 16140 of the Welfare and Institutions Code is amended to read:

16140. For the purposes of this chapter "intercountry adoption" means the adoption of a foreign-born child for whom federal law makes a special immigration visa available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in California.

SEC. 12. Section 16141 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 16141 is added to the Welfare and Institutions Code, to read:

16141. The department shall adopt regulations to administer the intercountry adoption program to be carried out by private adoption agencies licensed to provide intercountry adoption services.

SEC. 14. Section 16142 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 16142 is added to the Welfare and Institutions

Code, to read:

16142. For those intercountry adoptions that will be finalized in the state, the private adoption agency licensed to perform intercountry adoption services shall provide all of the following services:

(a) Assessment of the suitability of the applicant's home.

(b) Placement of the foreign-born child in an approved home.

(c) Postplacement supervision.

(d) Submission to the court of a report on the intercountry adoptive placement with a recommendation regarding the granting of the petition.

(e) Services to applicants seeking to adopt related children living in foreign countries. The Legislature recognizes that these children have an impelling need for adoptive placement with their relatives.

SEC. 16. Section 16142.1 is added to the Welfare and Institutions Code, to read:

16142.1. For those adoptions that will be finalized in a foreign country, the private adoption agency licensed to perform intercountry adoption services shall provide all of the following services:

(a) Assessment of the suitability of the applicant's home.

(b) Certification to the Immigration and Naturalization Service that California's adoptive requirements have been met.

SEC. 17. Section 16143 is added to the Welfare and Institutions Code, to read:

16143. (a) For those intercountry adoptions finalized in the state, the private adoption agency licensed to perform intercountry adoption services shall assume all responsibilities for the child including care, custody, and control as if the child had been relinquished for adoption in California from the time the child leaves its native country.

(b) Notwithstanding subdivision (a), if the child's native country requires and has given full guardianship to the prospective adoptive parents, the prospective adoptive parents shall assume all responsibilities for the child including care, custody, control, and financial support.

(c) If the prospective adoptive parents or agency fail to meet its responsibility for the care, custody, control, and financial responsibility of the child and the child becomes a dependent of the court pursuant to Section 300, the state shall assume responsibility for the cost of care for the child. When the child becomes a dependent of the court and if, for any reason, is ineligible for AFDC under Section 14005.1 and loses Medi-Cal eligibility, the child shall be deemed eligible for Medi-Cal under Section 14005.4 and the Director of Health Services shall be given authority to provide payment for the medical services to the child which are necessary to meet the child's needs.

SEC. 18. Section 16143.1 is added to the Welfare and Institutions Code, to read:

16143.1. Nothing in this article shall be construed to prohibit the licensed adoption agency from entering into an agreement with the prospective adoptive parents to share or transfer financial responsibility for the child.

SEC. 19. Section 16143.2 is added to the Welfare and Institutions Code, to read:

16143.2. The costs incurred by licensed adoption agencies pursuant to programs established by the act which added this section to the Welfare and Institutions Code shall be funded by fees charged by those agencies for services required by this chapter. The agency's fee schedule must be approved by the department initially, and whenever it is altered.

SEC. 20. Section 16144 is added to the Welfare and Institutions Code, to read:

16144. As a condition of placement, the prospective adoptive parents shall file a petition to adopt the child under Section 226 of the Civil Code within 30 days of placement.

SEC. 21. Section 16145 is added to the Welfare and Institutions Code, to read:

16145. To facilitate the adoption of foreign-born children, licensed private adoption agencies may enter into agreements with domestic and foreign adoption agencies, provided that these agreements do not violate state adoption laws or department regulations.

SEC. 22. Section 16146 is added to the Welfare and Institutions Code, to read:

16146. Notwithstanding any other provision of law, those licensed county adoption agencies currently providing intercountry adoption services and the State Department of Social Services shall continue to process those cases which are active on the effective date of this section and in which any of the following conditions apply:

(a) An approved home study has been transmitted to a foreign agency for child matching.

(b) The prospective adoptive parents have paid a fee for intercountry adoption services.

(c) The applicant has been accepted for family assessment and the assessment process started on or before the effective date of this section.

SEC. 23. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted by the State Department of Social Services within 120 days of the enactment of this act in order to implement the provisions of this act shall not be subject to review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days unless the agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately resolve a critical problem in the intercountry adoptions program, which has caused a suspension of some intercountry placements, and a reluctance of out-of-state adoption agencies to work with California families, it is necessary that this act take effect immediately.

CHAPTER 1117

An act to amend Sections 21659, 21670, 21671, 21675, 21678, and 21681 of, and to add Section 21676.5 to, the Public Utilities Code, relating to aeronautics.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 21659 of the Public Utilities Code is amended to read:

21659. (a) No person shall construct any structure or permit any natural growth to grow at a height so as to constitute a hazard to air navigation, as a hazard to air navigation is defined in accordance with the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations, Part 77, unless a permit allowing the construction or growth is issued by the department.

(b) The permit shall not be required if the Federal Aviation Administration has determined that the construction or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.

(c) Section 21658 is applicable to subdivision (b).

SEC. 2. Section 21670 of the Public Utilities Code, as amended by Section 3 of Chapter 1041 of the Statutes of 1982, is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669, and prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public

airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county, except that one representative shall be appointed from an airport operated for the benefit of the general public.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 3. Section 21670 of the Public Utilities Code, as added by Section 4 of Chapter 1041 of the Statutes of 1982, is amended to read:

21670. (a) Every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that these are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county, except that one representative shall be appointed from an airport operated for the benefit of the general public.

(4) One representing the general public, appointed by the other six members of the commission.

(b) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(c) Each member shall promptly appoint a single proxy to represent the member in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(d) This section shall become operative January 1, 1989.

SEC. 4. Section 21671 of the Public Utilities Code, as amended by Section 5 of Chapter 1041 of the Statutes of 1982, is amended to read:

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that

airport is located, and one of the representatives provided by paragraph 2 of subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

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

SEC. 5. Section 21671 of the Public Utilities Code, as added by Section 6 of Chapter 1041 of the Statutes of 1982, is amended to read:

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (a) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) of subdivision (a) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

This section shall become operative January 1, 1989.

SEC. 5.5. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall not be amended more than once in any calendar year.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 6. Section 21676.5 is added to the Public Utilities Code, to read:

21676.5. (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of

this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the commission plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670.

(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.

SEC. 7. Section 21678 of the Public Utilities Code is amended to read:

21678. (a) With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676 or 21676.5 overrides a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

(b) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 8. Section 21681 of the Public Utilities Code is amended to read:

21681. For the purposes of this article:

(a) "Own and operate" means that the public entity must own property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and must maintain dominion and control of the property. Operations of the airport will be for and on behalf of the public entity. All leases to the public entity of property must be approved by the department. A lease of the property to an agent or agency other than the public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money provided by the public entity and which does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation with the exception of air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport

authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway clear zones" as defined in current regulations of the Federal Aviation Administration.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway clear zones.

(7) Original installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Original installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Original erection of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Such other capital improvements as may from time to time be designated in rules and regulations promulgated by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated comprehensive land use plan pursuant to Section 21675.

Expenditures which cannot be clearly identified as capital improvements must be submitted to the department for consideration and approval.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital

expenditures which are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and such other items of expenditure which may be designated as "operation and maintenance" in rules and regulations promulgated by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding thereof. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

SEC. 8.5. Section 21681 of the Public Utilities Code is amended to read:

21681. For purposes of this article:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money which is provided by the public entity and which does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation with the exception of air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway clear zones" as defined in current regulations of the Federal Aviation Administration.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway clear zones.

(7) Original installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Original installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Original erection of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Such other capital improvements as may, from time to time, be designated in rules and regulations adopted by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated comprehensive land use plan pursuant to Section 21675.

Expenditures which cannot be clearly identified as capital improvements shall be submitted to the department for consideration and approval.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures which are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and such other items of expenditure which may be designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding thereof. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or

interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

SEC. 9. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 10. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 11. Section 8.5 of this bill incorporates amendments to Section 21681 of the Public Utilities Code proposed by both this bill and AB 2640. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21681 of the Public Utilities Code, and (3) this bill is enacted after AB 2640, in which case Section 8 of this bill shall not become operative.

CHAPTER 1118

An act to amend Section 22511.5 of, and to add Section 22511.6 to, the Vehicle Code, relating to vehicles and making an appropriation therefor.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is any of the following:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device

(2) Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with

corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to such an extent that his forced (respiratory) expiratory volume one second when measured by spirometry is less than one liter or his arterial oxygen tension (pO_a) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) Disabled persons shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted and shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section does not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c), may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which, when displayed in conjunction with the distinguishing license plate, provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department.

The Department of Motor Vehicles may establish procedures for the issuance and renewal of the placards. Placards issued or renewed pursuant to this subdivision shall be valid for a period of two years, unless sooner canceled or revoked pursuant to this subdivision or Section 22511.6. The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance and renewal of placards.

No disabled person is eligible for more than one placard at any time. Organizations and agencies involved in the transportation of disabled persons may apply for a placard for each vehicle used for the purpose of transporting disabled persons.

The department shall issue new placards to replace placards issued prior to July 1, 1985. The new placards shall be issued as soon as possible on or after July 1, 1985. All placards issued prior to July 1, 1985, shall expire October 1, 1985. The Department of Motor Vehicles may charge a fee sufficient to cover its actual costs for issuance of substitute placards.

(e) Prior to issuing a disabled person plate or placard, the Department of Motor Vehicles may require a certificate, signed by a licensed physician and surgeon. However, the disability of a person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any person applying shall be certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist.

(f) A person who is temporarily disabled for a period of less than one year, may apply for a placard as prescribed in subdivision (d).

(g) Disabled persons shall be allowed to park a vehicle displaying a distinguishing disabled person or disabled veteran license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled person or disabled veteran license plate or placard by the Department of Motor Vehicles.

SEC. 2. Section 22511.6 is added to the Vehicle Code, to read:

22511.6. (a) The Department of Motor Vehicles may cancel or revoke a disabled person placard issued pursuant to subdivision (d) of Section 22511.5 in any of the following events:

(1) When the department is satisfied that the placard was fraudulently obtained or erroneously issued.

(2) When the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

(3) When the placard could have been refused when last issued or renewed.

(4) When the department determines that the owner has committed any offense described in Section 4461 or 4463, involving the placard to be canceled or revoked.

(b) Whenever the Department of Motor Vehicles cancels or revokes a disabled person placard, the owner or person in possession of the placard shall immediately return the placard to the department.

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

SEC. 4. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles for the purpose of implementing the provisions of this act. The amount appropriated by this section shall be reimbursed to the Motor Vehicle Account in the State Transportation Fund commencing July 1, 1985, from the fees imposed by the department pursuant to this act.

CHAPTER 1119

An act to add Section 11412 to the Penal Code, relating to terrorism.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 11412 is added to the Penal Code, to read:

11412. Any person who, with intent to cause, attempts to cause or causes another to refrain from exercising his or her religion or from engaging in a religious service by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out is guilty of a felony.

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

CHAPTER 1120

An act to amend Section 2932 of the Penal Code, relating to prisoners.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 2932 of the Penal Code is amended to read:

2932. (a) For any time credit accumulated pursuant to Section 2931 or to Section 2933, not more than 180 days of credit may be

denied or lost for a single act of misconduct which could be prosecuted as a felony whether or not prosecution is undertaken, except that not more than one year of credit may be denied or lost for a single act of battery in which great bodily injury is inflicted upon a nonprisoner. Not more than 90 days of credit may be denied or lost for a single act of misconduct which could be prosecuted as a misdemeanor, whether or not prosecution is undertaken. Not more than 30 days of credit may be denied or lost for a single act of misconduct defined by regulation as a serious disciplinary offense by the Department of Corrections. Any person confined due to a change in custodial classification following the commission of any serious disciplinary infraction shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for such act of misconduct. In unusual cases, an inmate may be denied the opportunity to participate in a credit qualifying assignment for up to six months beyond the period specified in this subdivision if the Director of Corrections finds, after a hearing, that no credit qualifying program may be assigned to the inmate without creating a substantial risk of physical harm to staff or other inmates. At the end of the six-month period and of successive six-month periods, the denial of the opportunity to participate in a credit qualifying assignment may be renewed upon a hearing and finding by the director.

The prisoner may appeal the decision through the department's review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(b) For any credit accumulated pursuant to Section 2931, not more than 30 days of participation credit may be denied or lost for a single failure or refusal to participate. Any act of misconduct described by the Department of Corrections as a serious disciplinary infraction if committed while participating in work, educational, vocational, therapeutic or other prison activity shall be deemed a failure to participate.

(c) Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections for serious disciplinary infractions if those procedures are not in conflict with this section.

(1) The Department of Corrections shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, except that if the prisoner has escaped, the notice shall be given within 15 days of the prisoner's return to the custody of the Director of Corrections. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the

procedures that will be employed at the proceedings and the prisoner's rights at the hearing. The hearing shall be conducted by an individual who shall be independent of the case and shall take place within 30 days of the written notice.

(2) The prisoner may elect to be assigned an employee to assist in the investigation, preparation, or presentation of a defense at the disciplinary hearing if it is determined by the department that: (i) the prisoner is illiterate; or (ii) the complexity of the issues or the prisoner's confinement status makes it unlikely that the prisoner can collect and present the evidence necessary for an adequate comprehension of the case.

(3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. Such specific reasons shall be set forth in writing and a copy of the document shall be presented to the prisoner.

(4) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.

(5) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the prisoner may be found guilty on the basis of a preponderance of the evidence.

(d) If found guilty the prisoner shall be advised in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of time-credit loss. The prisoner may appeal such decision through the Department of Corrections' review procedure, and may, upon final notification of appeal denial, within 15 days of such notification demand review of the department's denial of credit to the Board of Prison Terms, and the board may affirm, reverse, or modify the department's decision or grant a hearing before the board at which hearing the prisoner will have the rights specified in Section 3041.5.

(e) Each prisoner subject to Section 2931 shall be notified of the total amount of good behavior and participation credit which may be credited pursuant to Section 2931, and his anticipated time-credit release date. The prisoner shall be notified of any change in the anticipated release date due to denial or loss of credits, award of worktime credit, under Section 2933, or the restoration of any credits previously forfeited.

(f) If the conduct the prisoner is charged with also constitutes a crime, the Department of Corrections may refer the case to criminal authorities for possible prosecution. The department shall notify the prisoner, who may request postponement of the disciplinary proceedings pending such referral.

The prisoner may revoke his request for postponement of the disciplinary proceedings up until the filing of the accusatory pleading. In the event of the revocation of the request for postponement of the proceeding, the department shall hold the hearing within 30 days of the revocation.

In the case where the prisoner is prosecuted by the district

attorney, the Department of Corrections shall not deny time credit where the prisoner is found not guilty and may deny credit if the prisoner is found guilty, in which case the procedures in subdivision (c) shall not apply.

(g) If time credit denial proceedings or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of time spent incarcerated, in excess of what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.

(h) Nothing in the amendments to this section made at the 1981–82 Regular Session of the Legislature shall affect the granting or revocation of credits attributable to that portion of the prisoner's sentence served prior to January 1, 1983.

CHAPTER 1121

An act to amend Section 2 of Chapter 1122 of the Statutes of 1980, relating to prison facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. The Legislature intends to authorize and make an appropriation to remedy structural and physical deficiencies at San Quentin State Prison in order to comply with a declaratory judgment and permanent injunction issued by the Superior Court of the State of California for the County of Marin in Wilson vs. Deukmejian (Marin County No. 103454).

SEC. 2. Section 2 of Chapter 1122 of the Statutes of 1980 is amended to read:

Sec. 2. (a) It is the intent of the Legislature that the Department of Corrections utilize, to the extent possible, the authority granted in Chapter 9.5 (commencing with Section 6250) of Title 7 of Part 3 of the Penal Code to place inmates in community facilities, and to that end, all reasonable efforts shall be made to provide facilities to house at least 700 inmates by December 31, 1981. Further, it is the intent of the Legislature that the department utilize such facilities for prerelease planning for the maximum number of inmates to the extent authorized by law.

(b) The Director of Corrections is authorized to construct and establish two maximum security institutions on the existing site at Tehachapi.

(c) It is the intent of the Legislature that the department house each inmate at the lowest custody level consistent with his or her

classification and that the department acquire and build adequate facilities similar to those presently used in the Conservation Camp Program to house minimum custody inmates. Further, it is the intent of the Legislature that the department make all reasonable efforts to house 300 additional inmates in such facilities by June 30, 1982.

SEC. 3. The sum of twenty-one million eight hundred sixty-eight thousand dollars ($21,868,000) is hereby appropriated from the General Fund to the Department of Corrections for the renovation of San Quentin State Prison, to be allocated as follows:

I. Capital outlay			10,193,000
(a) Fireproof metal storage lockers		244,000	
(1) South, East and North Blocks: 1,803 cells preliminary plans, working drawings and construction	184,000		
(2) West Block 700 cell preliminary plans, working drawings and construction	60,000		
(b) Smoke detection and smoke removal systems		950,000	
(1) South and West Blocks: preliminary plans, working drawings and construction	300,000		
(2) North, South and East Blocks: preliminary plans, working drawings and construction	650,000		
(c) Back flow prevention: preliminary plans, working drawings and construction		94,000	
(d) Electrical renovation		4,700,000	
(1) 700 cells in West and South Blocks: preliminary plans, working drawings and construction	800,000		
(2) 1,803 cells in East, North and South Blocks: preliminary plans, working drawings and			

construction	3,900,000	
(e) Renewal of plumbing system and fixtures		4,205,000
(1) East, North, and South Blocks: preliminary plans, working drawings and construction	3,360,000	
(2) Segregation North, West Block: preliminary plans, working drawings and construction	845,000	
II. Special repairs: reroofing buildings, structural and mechanical repairs, heating system repair and relocation, steam distribution and condensate return repair replacement, and window and screen rebuilding and installation		11,675,000

SEC. 4. The Department of Corrections shall submit a report to the Legislature by June 30, 1987, which sets forth the appropriateness of reducing the custody level of San Quentin State Prison in the context of new maximum security facilities constructed and planned as of that date.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is essential to the public safety and to comply with a court order to remedy structural and physical deficiencies at San Quentin State Prison that this act take effect immediately.

CHAPTER 1122

An act to add Section 11624.6 to the Insurance Code, relating to insurance.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 11624.6 is added to the Insurance Code, to read:

11624.6. An agent or broker, or an insurer to which an application has been assigned by the plan may conclusively rely, in issuing a policy, upon the validity of any signatures appearing thereon

accepting or waiving coverages contained in the application, and that the only coverages to be provided and the limits and deductibles thereof are those stated in the application.

CHAPTER 1123

An act to amend Sections 825.5, 5068, and 5079 of, and to add Sections 5058.5 and 5068.5 to, the Penal Code, relating to criminal law.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 825.5 of the Penal Code is amended to read:

825.5. Any physician and surgeon, including a psychiatrist, licensed to practice in this state, or any psychologist licensed to practice in this state who holds a doctoral degree and has at least two years of experience in the diagnosis and treatment of emotional and mental disorders, who is employed by the prisoner or his or her attorney to assist in the preparation of the defense, shall be permitted to visit the prisoner while he or she is in custody.

SEC. 2. Section 5058.5 is added to the Penal Code, to read:

5058.5. In addition to the services rendered by physicians and surgeons, including psychiatrists, or by psychologists, pursuant to Sections 5068 and 5079, physicians and surgeons, including psychiatrists and psychologists, employed by, or under contract to provide mental health services to, the Department of Corrections may also provide the following medically or psychologically necessary services: prescreening of mental disorders; determination of the mental competency of inmates to participate in classification hearings; evaluation of parolees during temporary detention; determining whether mental health treatment should be a condition of parole; and such other services as may be required which are consistent with their licensure.

SEC. 3. Section 5068 of the Penal Code is amended to read:

5068. The Director of Corrections shall cause each person committed to a state prison to be examined and studied. This includes the investigation of all pertinent circumstances of the person's life and the antecedents of the violation of law because of which he or she has been committed to prison. Any person may be reexamined to determine whether existing orders and dispositions should be modified or continued in force.

Upon the basis of the examination and study, the Director of Corrections shall classify prisoners and determine the prison in which the prisoners shall be confined.

When the diagnostic study of any inmate committed under

subdivision (b) of Section 1168 so indicates, the director shall cause a psychiatric or psychological report to be prepared for the Community Release Board prior to the release of the inmate. The report shall be prepared by a psychiatrist or psychologist licensed to practice in this state.

Before the release of any inmate committed under subdivision (b) of Section 1168, the director shall provide the Community Release Board with a written evaluation of the prisoner.

SEC. 4. Section 5068.5 is added to the Penal Code, to read:

5068.5. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state correctional system shall be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state.

(b) Notwithstanding Section 5068 of this code, or Section 704 of the Welfare and Institutions Code, persons employed on January 1, 1985, as psychologists to provide diagnostic or treatment services, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a), so long as they continue in employment in the same class and in the same department. Additionally, the requirements of subdivision (a) may be waived in order for a person to gain qualifying experience for licensure as a psychologist in this state. However, such a waiver shall not exceed two years from the date of the commencement of employment. The requirements of subdivision (a) may be waived for a person recruited for employment from outside this state and who possesses experience sufficient to qualify for admission to a licensing examination on the date of his or her employment for a period of one year from the date of his or her employment.

SEC. 5. Section 5079 of the Penal Code is amended to read:

5079. The Director of Corrections shall provide facilities and licensed professional personnel for a psychiatric and diagnostic clinic and such branches thereof as may be required at one or more of the state prisons or institutions under the jurisdiction of the Department of Corrections. The director shall have full administrative authority and responsibility for operation of the clinics. All required mental health treatment or diagnostic services shall be provided under the supervision of a psychiatrist licensed to practice in this state, or a psychologist licensed to practice in this state and who holds a doctoral degree and has at least two years of experience in the diagnosis and treatment of emotional and mental disorders. All such clinics shall be under the direction of such a psychiatrist or psychologist. A psychiatrist shall be available to assume responsibility for all acts of diagnosis or treatment which may only be performed by a licensed physician and surgeon.

The work of the clinic shall include a scientific study of each prisoner, his or her career and life history, the cause of his or her

criminal acts and recommendations for his or her care, training, and employment with a view to his or her reformation and to the protection of society. The recommendation shall be submitted to the Director of Corrections and shall not be effective until approved by the director. The Director of Corrections may modify or reject the recommendations as he or she sees fit.

CHAPTER 1124

An act to amend Sections 99303, 120050, 120051.5, 120053, 120054, 120100, 120102, 120107, 120224, 120263, 120351, 120354, 120520, 120521, and 120680 of, to amend and renumber Section 120479 of, to amend and renumber the headings of Article 10 (commencing with Section 120470) and Article 9 (commencing with Section 120475) of Chapter 4 of Division 11 of, and to add Sections 120050.2, 120051.6, 120102.5, 120265, 120508, and 120522 to, the Public Utilities Code, and to amend Section 2358 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 99303 of the Public Utilities Code is amended to read:

99303. Not less than 75 percent of the unallocated apportionment, as of June 30, 1978, and each June 30th thereafter, for the cities, and that portion of the County of San Diego, under the jurisdiction of the San Diego Metropolitan Transit Development Board shall be available to the board for exclusive public mass transit guideway purposes as specified in Article 4 (commencing with Section 120260) of Chapter 4 of Division 11.

On July 1 of the first fiscal year of implementation of Section 120265, this section shall no longer be effective except as to the prior year's unallocated apportionment.

SEC. 1.5. Section 120050 of the Public Utilities Code is amended to read:

120050. There is hereby created the San Diego Metropolitan Transit Development Board in that portion of the County of San Diego as described in Section 120052 and, if the board acquires the San Diego Transit Corporation, Section 120054.

Except as provided in Section 120050.2, the board shall consist of eight members selected as follows:

(a) One member of the County of San Diego Board of Supervisors appointed by the board of supervisors.

(b) Four members of the City Council of the City of San Diego, one of whom may be the mayor, appointed by the city council.

(c) One councilman appointed jointly by the City Councils of the Cities of Chula Vista, Imperial Beach, and National City from their membership.

(d) One councilman appointed jointly by the City Councils of the Cities of El Cajon, La Mesa, and Lemon Grove from their membership.

(e) One member, a resident of San Diego County, appointed by the Governor, with the advice and consent of the Senate.

SEC. 2. Section 120050.2 is added to the Public Utilities Code, to read:

120050.2. If the San Diego Metropolitan Transit Development Board acquires the San Diego Transit Corporation, the board shall consist of 15 members selected as follows:

(a) One member of the County of San Diego Board of Supervisors, appointed by the board of supervisors.

(b) Four members of the City Council of the City of San Diego, one of whom may be the mayor, appointed by the city council.

(c) One member of each city council appointed individually by the City Councils of the Cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee.

(d) One member, a resident of San Diego County, appointed by the Governor, with the advice and consent of the Senate, who shall, notwithstanding Section 120100, serve as chairperson of the board.

SEC. 3. Section 120051.5 of the Public Utilities Code is amended to read:

120051.5. (a) The County of San Diego Board of Supervisors shall appoint any other county supervisor who qualifies for appointment pursuant to Section 120051 to serve as an alternate member of the transit development board.

(b) The City Council of the City of San Diego shall appoint a member of the city council not already appointed pursuant to subdivision (b) of Section 120050 to serve as an alternate member of the transit development board for any one of the members appointed by the city council to the transit development board.

(c) The city councils specified in subdivision (c) of Section 120050 shall jointly appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(d) The city councils specified in subdivision (d) of Section 120050 shall jointly appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(e) The Governor shall, with the advice and consent of the Senate, appoint a resident of the County of San Diego to serve as an alternate member of the transit development board.

(f) An alternate member may not vote on adoption of any plan or annual budget, unless the alternate member has written authorization and instructions from the regular member on how to

vote on the adoption of the plan or annual budget, as the case may be.

SEC. 4. Section 120051.6 is added to the Public Utilities Code, to read:

120051.6. If the San Diego Metropolitan Transit Development Board acquires the San Diego Transit Corporation, the alternate members of the board shall be appointed as follows:

(a) The County of San Diego Board of Supervisors shall appoint any other county supervisor who qualifies for appointment pursuant to Section 120051 to serve as an alternate member of the transit development board.

(b) The City Council of the City of San Diego shall appoint a member of the city council not already appointed pursuant to subdivision (b) of Section 120050.2 to serve as an alternate member of the transit development board for each of the members appointed by the city council to the transit development board.

(c) The city councils specified in subdivision (c) of Section 120050.2 shall each individually appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(d) The Governor shall, with the advice and consent of the Senate, appoint a resident of the County of San Diego to serve as an alternate member of the transit development board.

(e) An alternate member may not vote on the adoption of any plan or annual budget, unless the alternate member has written authorization and instructions from the regular member on how to vote on the adoption of the plan or annual budget, as the case may be.

SEC. 5. Section 120053 of the Public Utilities Code is amended to read:

120053. The San Diego Metropolitan Transit Development Board may acquire the San Diego Transit Corporation.

The acquisition may occur by agreement between the board and the City of San Diego for the transfer of the corporation, including all vehicles and other assets of the corporation, from the city to the board. The total compensation due to the City of San Diego for the assets of the San Diego Transit Corporation may be one dollar ($1). Upon the transfer, the board may maintain the corporation as a separate entity and may contract with the corporation to provide transit services.

SEC. 6. Section 120054 of the Public Utilities Code is amended to read:

120054. If the San Diego Metropolitan Transit Development Board acquires the San Diego Transit Corporation, the area of the board shall consist of all of the following:

(a) The Cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, and Santee.

(b) Census tracts 100.07, 133.05, 134.04, 135.02, 136.02, 154.02,

156.02, 164.02, 166.07, 166.08, 167.01, 167.02, 168.04, 168.05, 170.05, and 170.10, as set forth in the 1980 decennial census maps for the State of California on file with the Bureau of the Census, Department of Commerce, Washington, D.C.

(c) All the unincorporated area of the County of San Diego surrounded by the cities specified in subdivision (a) and the census tracts specified in subdivision (b).

SEC. 7. Section 120100 of the Public Utilities Code is amended to read:

120100. The board at its first meeting, and thereafter annually at the first meeting in January, shall elect a chairman who shall preside at all meetings, and a vice chairman who shall preside in the absence of the chairman. In the event of the absence or inability to act by the chairman or vice chairman, the members present, by an order entered in the minutes, shall select one of their members to act as chairman pro tem, who, while so acting, shall have all of the authority of the chairman.

SEC. 7.5. Section 120102 of the Public Utilities Code is amended to read:

120102. Except as provided in Section 120102.5, a majority of the members of the board constitutes a quorum for the transaction of business, and all official acts of the board require the affirmative vote of a majority of the members of the board.

SEC. 8. Section 120102.5 is added to the Public Utilities Code, to read:

120102.5. (a) If the transit development board acquires the San Diego Transit Corporation, a majority of the members of the board constitutes a quorum for the transaction of business. All official acts of the board require the affirmative vote of the majority of the members of the board. However, after a vote of the members is taken, a weighted vote may be called by any two members, at least one of whom is not a City of San Diego representative.

(b) In the case of a weighted vote, each of the four representatives of the City of San Diego shall exercise 12½ weighted votes, for a total of 50 votes. The County of San Diego and each city, other than the City of San Diego, shall, in total, exercise 49 weighted votes to be apportioned annually by population. The member appointed by the Governor shall exercise one weighted vote.

(c) Approval under the weighted vote procedure requires the vote of the representatives of not less than three jurisdictions representing not less than 51 percent of the total weighted vote to supersede the original action of the board.

(d) The weighted vote procedure shall not be used on any matter of purely intracity local service, unless it is the desire of the affected city or jurisdiction.

(e) For purposes of subdivision (c), the population of the County of San Diego is the population in the unincorporated area of the county within the area of jurisdiction of the transit development board.

(f) The board shall adopt a policy and procedure to implement this section.

SEC. 9. Section 120107 of the Public Utilities Code is amended to read:

120107. Each member of the board, including alternate members appointed pursuant to Section 120051.5 or 120051.6 when serving in the absence of a regular member, shall be paid one hundred dollars ($100) for each day the member attends meetings of the board, and his or her necessary and reasonable expenses in performing his or her duties as a board member.

SEC. 10. Section 120224 of the Public Utilities Code is amended to read:

120224. Contracts for the construction in excess of twenty thousand dollars ($20,000) shall be awarded to the lowest responsible bidder submitting a responsive bid after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board. When the expected construction contract exceeds one thousand dollars ($1,000) and does not exceed twenty thousand dollars ($20,000), the board shall seek a minimum of three quotations, either written or oral, which permit prices and other terms to be compared.

SEC. 11. Section 120263 of the Public Utilities Code is amended to read:

120263. Priority for guideway development shall be given to meeting the transportation needs of areawide corridors of travel. If the transit development board determines that a guideway system intended solely for an activity center is appropriate, the approval of the California Transportation Commission is necessary prior to the use of funds allocated from the State Highway Account in the State Transportation Fund for the guideway system.

SEC. 12. Section 120265 is added to the Public Utilities Code, to read:

120265. If the transit development board acquires the San Diego Transit Corporation:

(a) The board shall provide a system of regional transit services for its area of jurisdiction, to be funded from the regional transit service fund which the board shall create. The board may provide the regional services directly, by contract with the corporation, or by contract with any other provider of services as it deems appropriate, and upon terms and conditions that the board finds in its best interests. The board shall complete an economic feasibility study of competitive bidding for regional transit service within 180 days from the date of acquisition of the San Diego Transit Corporation and shall update the study at any time the board deems appropriate to consider changed circumstances. The board shall adopt a policy for contract services to permit prices and other factors to be compared and evaluated prior to negotiating any contract for regional service.

(b) The board shall determine the routes, fares, frequency of service, and hours of operation of regional services. The board shall

create a regional transit service advisory committee consisting of a representative from each of the jurisdictions that contributes to the regional transit service funds from its apportionment as determined pursuant to Section 99231.

Periodic revisions to the regional route system may be made by the board upon review by the regional transit service advisory committee which shall meet on an as-needed basis, but not less than once a year to review the annual budget and assessment for regional transit services.

(c) The formula specified in subdivision (d) for funding regional services shall remain in effect for a minimum of three fiscal years and thereafter may be amended by agreement of all affected jurisdictions and the board. The regional transit service advisory committee shall review the assessment formula and recommend appropriate changes to the board and the jurisdictions.

(d) On an annual basis, at the time that the annual apportionment schedule is developed by the transportation planning agency, each jurisdiction shall be assessed a percentage of its apportionment equal to the percentage of its 1983–84 fiscal year apportionment claimed for support of regional services or 5 percent of its annual apportionment, whichever is greater. The assessment for the County of San Diego shall be applied only to that portion of the county apportionment attributable to the board's area of jurisdiction as defined in Section 120054. Any funds remaining after the annual assessment for regional services shall be made available to the jurisdictions for support of transit purposes.

(e) The board may acquire the San Diego Transit Corporation and provide regional services as funded in this section only at the commencement of a fiscal year.

(f) The board may enter into agreements with any local jurisdiction to provide local transit services by such means and upon terms and conditions as may be mutually agreed upon.

(g) The board shall, upon request of the City of Coronado, Poway, or Santee, or the County of San Diego, establish reserves consisting of that part of the board's allocation pursuant to paragraph (1) of subdivision (b) of Section 99233.5, which otherwise would have been allocated to each requesting city or county for the first two fiscal years after the board's acquisition of the San Diego Transit Corporation. The reserves shall be used by the board for transit purposes within the requesting city or county.

(h) The acquisition of the San Diego Transit Corporation by the board shall not create or impose any financial liability upon the County of San Diego or the cities within the board's area of jurisdiction for any obligations and liabilities of the corporation by virtue of their membership on the board.

SEC. 12.5. Section 120351 of the Public Utilities Code is amended to read:

120351. The designated recipient for purposes of Section 1604 of Title 49 of the United States Code shall be responsible for allocating

federal transit funds to eligible recipients. The board shall prepare the program of projects for transit capital and operating assistance projects in its area of jurisdiction for receipt of federal funds. The designated recipient shall allocate the funds to the board to fund its projects. If a dispute regarding the allocation of funds arises between the board and the North San Diego County Transit Development Board, the two boards shall negotiate in good faith to resolve the dispute. If the negotiation does not result in resolving the dispute prior to adoption of the annual regional transportation improvement program, the designated recipient shall resolve the dispute and allocate the funds accordingly.

SEC. 12.6. Section 120354 of the Public Utilities Code is amended to read:

120354. An average of 15 percent of the funds allocated pursuant to Section 2358 of the Streets and Highways Code to the San Diego urbanized area over the succeeding five-year program period shall be allocated for transit projects. The projects shall be determined by and subject to adjustment based upon mutual agreement of the board, the transportation planning agency, and the North San Diego County Transit Development Board. The board shall program those funds determined to be available for transit projects within its area of jurisdiction.

SEC. 13. The heading of Article 10 (commencing with Section 120470) of Chapter 4 of Division 11 of the Public Utilities Code is amended and renumbered to read:

Article 9. Investments

SEC. 14. The heading of Article 9 (commencing with Section 120475) of Chapter 4 of Division 11 of the Public Utilities Code is amended and renumbered to read:

Article 10. Transit Service Dispute Resolution

SEC. 15. Section 120479 of the Public Utilities Code is amended and renumbered to read:

120478. The rules and regulations adopted by the board shall include, but not be limited to, the following:

(a) Criteria to determine the definition and validity of a regional transit service dispute.

(b) Procedures for the submission of a regional transit service dispute to the board.

(c) The information, such as the matter in dispute, to be included in the notice to be sent to the parties in the regional transit service dispute.

(d) The procedure for mediation prior to a hearing before a transit coordination and service committee.

(e) The appointment, if mediation fails, of a transit coordination and service committee, consisting of board members, to hold a public

hearing on the regional transit service dispute in the locality of the dispute and to make reports of its findings of fact and its recommendations regarding the dispute to the board.

(f) If the board exercises its authority pursuant to Section 120053 to acquire the San Diego Transit Corporation, the adoption of one or more alternative procedures for the review and resolution of regional disputes involving the San Diego Transit Corporation, to be mutually agreed upon by the parties to the dispute.

(g) If the regional dispute involves one or more local agencies not within the area governed by the board, the adoption of one or more alternative procedures for the review and resolution of the dispute, to be mutually agreed upon by the parties to the dispute.

(h) Actions the board may take to resolve the dispute.

SEC. 16. Section 120508 is added to the Public Utilities Code, to read:

120508. This article also applies to the employee relations of employees of a nonprofit entity which operates public mass transit services and which is solely owned by the board. For employee relations regarding these employees, the term "board," as used in this article, means the board of directors of the nonprofit entity.

SEC. 17. Section 120520 of the Public Utilities Code is amended to read:

120520. Whenever the board acquires ownership of the San Diego Transit Corporation, or other existing facilities from a privately or publicly owned utility, either in proceedings by eminent domain or otherwise and terminates the legal existence of the corporation or utility, and operates the facilities itself, to the extent necessary for operation of facilities, any of the employees whose duties pertain to the facilities acquired who have been employed by the corporation or utility, as the case may be, for at least 75 days shall be appointed to comparable positions by the board without examination. These employees shall be given sick leave, seniority, and vacation credits in accordance with the records of the corporation or other acquired utility, as the case may be. No employee of the former corporation or utility shall suffer any worsening of wages, seniority, pension, vacation, or other benefits as they exist at the time of and by reason of the acquisition.

The board shall assume and observe all existing labor contracts of the former corporation or utility, as the case may be, insofar as they relate to the acquired facilities.

This section applies only to those officers or supervisory employees of the former corporation or utility, as the case may be, as shall be designated by the board.

SEC. 18. Section 120521 of the Public Utilities Code is amended to read:

120521. Whenever the board acquires ownership of the San Diego Transit Corporation, or other existing facilities from a privately or publicly owned public utility, either in proceedings in eminent domain or otherwise, and terminates the corporation or

operates the facilities itself, that has a pension plan in operation, the members and beneficiaries of the pension plan shall continue to have the rights, privileges, benefits, obligations, and status with respect to the plan.

The board shall consider, and take into account, the outstanding obligations and liabilities of the corporation or of the publicly or privately owned public utility, as the case may be, by reason of the pension plan, and may negotiate an allowance in the purchase price of the corporation or the utility for the assumption of those obligations and liabilities when acquiring the corporation or the utility.

SEC. 19. Section 120522 is added to the Public Utilities Code, to read:

120522. Whenever the board acquires ownership of the San Diego Transit Corporation, or other existing facilities from a privately or publicly owned public utility, either in proceedings in eminent domain or otherwise and maintains the corporation or utility, by whatever name, as a separate, legal corporate entity, the board of directors of the corporation or utility shall continue its responsibilities with regard to its employees' wages, hours, and other terms and conditions of employment, existing labor contracts, and existing pension plans.

SEC. 20. Section 120680 of the Public Utilities Code is amended to read:

120680. The board may borrow money in accordance with Article 7 (commencing with Section 53820), Article 7.6 (commencing with Section 53850), or Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 21. The amendment of Section 120680 of the Public Utilities Code made at the 1983–84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 22. Section 2358 of the Streets and Highways Code is amended to read:

2358. Funds apportioned to this state pursuant to subsection (b) (6) of Section 104 of Title 23 of the United States Code for federal urban system projects shall be allocated by the commission. Projects eligible for allocation include fringe parking projects, state highway projects, local street and highway projects, and public mass transit projects. The commission shall review the long-range planning programs for the urban system, and shall review each annual program for conformance with the long-range programs.

SEC. 23. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1125

An act to amend Sections 73564, 73566, 73568, 74604, 74607, 74610, and 74693 of, and to repeal Section 73563 of, the Government Code, relating to courts.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 73563 of the Government Code is repealed.

SEC. 2. Section 73564 of the Government Code is amended to read:

73564. The judges of the municipal court may appoint one commissioner, who shall hold office at the pleasure of the majority of the judges. The commissioner shall possess the same qualifications as are required by law of a judge of the municipal court, and shall not engage in the private practice of law. Within the jurisdiction of the court and at the direction of the judges, the commissioner shall exercise all of the powers and perform all of the duties which are authorized by law.

The commissioner shall receive a salary of 70 to 80 percent of the salary of a judge of the municipal court. The judges shall determine the level of the salary to be received by the commissioner within the range and in accordance with the qualification, performance, and other factors deemed relevant by the judges, and in accordance with any agreement the judges may have with the County of Monterey.

The commissioner shall be entitled to the same employee benefits which are provided for other attaches and employees of the court, as determined by the board of supervisors.

SEC. 3. Section 73566 of the Government Code is amended to read:

73566. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes the compensation for each job classification, are as follows; provided, however, that the board of supervisors may adjust the monthly salary pursuant to Section 73568, and may adjust the number and classification of positions pursuant to Section 73569:

Number	Job classification	Monthly salary
2	Municipal Court Branch Manager	$2,789 Flat
1	Administration Services Officer I	2,238–2,773
1	Accountant Auditor	1,651–2,045
2	Municipal Court Calendar Coordinator	1,465–1,814

1	Departmental Data Processing Coordinator	1,379–1,709
1	Accounting Technician	1,428–1,770
1	Senior Account Clerk	1,230–1,524
5	Account Clerk	1,075–1,332
7	Municipal Court Clerk IV	1,345–1,667
5	Municipal Court Clerk III	1,212–1,501
23	Municipal Court Clerk II	1,075–1,332
8	Municipal Court Clerk I	1,023–1,267
9	Courtroom Clerk	1,386–1,718
1	Court Interpreter	1,280–1,586
2	Secretary	1,255–1,554
2	Senior Data Entry Operator	1,194–1,479
5	Data Entry Operator II	1,043–1,293
1	Chief Deputy Municipal Court Clerk	1,908–2,364

SEC. 4. Section 73568 of the Government Code is amended to read:

73568. Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to certain classes of positions of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of the municipal court and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall govern salary adjustments and employee benefits for attachés of the municipal court in Monterey County.

On the effective date of any amendment to such resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount.

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary and benefits resolution and shall remain in effect only until January 1, of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court Classification	County Classification
Clerk and Municipal Court Administrator	Administrative Services Officer I, step 5, plus 24.6%
Municipal Court Branch Manager	Administrative Services Officer I, step 5, plus 6%
Administrative Services Officer I	Administrative Services Officer I
Accountant Auditor	Accountant Auditor
Municipal Court Calendar	Legal Process Clerk,

Coordinator	plus 62 ranges
Departmental Data Processing Coordinator	Departmental Data Processing Coordinator
Accounting Technician	Accounting Technician
Senior Account Clerk	Senior Account Clerk
Account Clerk	Account Clerk
Municipal Court Clerk IV	Legal Process Clerk, plus 45 ranges
Municipal Court Clerk III	Legal Process Clerk, plus 24 ranges
Municipal Court Clerk II	Legal Process Clerk
Municipal Court Clerk I	Typist Clerk II
Courtroom Clerk	Courtroom Clerk
Court Interpreter	Legal Process Clerk, plus 35 ranges
Secretary	Secretary
Senior Data Entry Operator	Senior Data Entry Operator
Data Entry Operator II	Data Entry Operator II
Chief Deputy Municipal Court Clerk	Administrative Assistant

Attachés of the municipal court district shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including, but not limited to, anniversary dates, changes thereto, and step advancements.

Whenever reference is made to a number of salary ranges in any section of this article, such reference shall be to ranges listed in the salary and benefits resolution of the County of Monterey in effect February 1, 1983.

SEC. 5. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the court executive officer who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court and shall hold office at his pleasure. The monthly compensation to be paid to the court executive officer shall be Range 1755, Step 5 of the San Luis Obispo County Salary Table. In addition to any other duties imposed on such officer by law, the court executive officer shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the

court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

(h) To provide for and conduct a program of in-service training for the personnel of the municipal court.

SEC. 6. Section 74607 of the Government code is amended to read:

74607. The presiding judge may make appointments to the following authorized positions:

Number	Classification	Salary Range
1	Assistant clerk-administrator	1036
1	Calendar coordinator	0809
4	Municipal court clerk IV	0809
4	Municipal court clerk III	0728
9	Municipal court clerk II	0605
20	Municipal court clerk I	0518
1	Accounting technician	0695
1	Account clerk	0544
2	Data entry operator I, II, III	0561 or 0606 or 0660

SEC. 7. Section 74610 of the Government Code is amended to read:

74610. (a) The positions enumerated in Sections 74604, 74607, and 74608 are deemed to be comparable in job and salary level to certain positions in the service of San Luis Obispo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Court classification	County classification
Court executive officer	Deputy county counsel IV (confidential)
Calendar coordinator	Supervising superior court clerk
Municipal court clerk IV	Supervising superior court clerk
Municipal court clerk III	Superior court clerk II
Municipal court clerk II	Legal process clerk I
Municipal court clerk I	Intermediate typist-clerk
Accounting technician	Accounting technician

Account clerk	Account clerk
Data entry operator I	Data entry operator I, II, III

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Salary adjustments made pursuant to this section shall be effective the same date as the effective date of action of the board of supervisors applicable to the respective and comparable county classifications, but shall remain effective only until January 1 of the second year following the year in which such an adjustment in salary is made.

(b) Whenever the salary of the position of municipal court clerk IV is adjusted pursuant to subdivision (a), the salary of the position of assistant clerk shall be adjusted by an equivalent percentage.

SEC. 8. Section 74693 of the Government Code is amended to read:

74693. The court administrator-clerk of the municipal court may appoint:

(a) One assistant court administrator-clerk of the municipal court, who shall receive a salary at a rate specified in range MT of the salary schedule.

(b) Two Supervising deputy court clerks, grade II, who shall receive a salary at the rate specified in range JL of the salary schedule.

(c) Three supervising deputy court clerks, grade I, who shall receive a salary at the rate specified in range JM of the salary schedule.

(d) Five senior municipal courtroom clerks who shall receive a salary at the rate specified in range JN of the salary schedule.

(e) Five municipal courtroom clerks who shall receive a salary at the rate specified in range 40 of the salary schedule.

(f) Twenty-four clerks, grade II or deputy court clerks. Clerks, grade II shall receive a salary at the rate specified in range 27 of the salary schedule. Deputy court clerks shall receive a salary at the rate specified in range 32 of the salary schedule.

(g) Two clerks, grade II, who shall receive a salary at the rate specified in range 27 of the salary schedule.

(h) Two typist clerks, each of whom shall be either grade I or grade II. Grade I typist clerks shall receive a salary at the rate specified in range J7 of the salary schedule. Grade II typist clerks shall receive a salary at the rate specified in range J8 of the salary schedule.

(i) One secretary, who shall receive a salary at the rate specified in range FT of the salary schedule.

(j) One departmental systems analyst, who shall receive a salary at the rate specified in range KF of the salary schedule.

(k) Two account clerks, grade III, who shall receive a salary at the rate specified in range FH of the salary schedule.

(*l*) Two court interpreters who shall receive a salary at the rate specified in range WC of the salary schedule.

SEC. 9. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1126

An act to add Sections 6254.1, 54956.8, and 54956.9 to the Government Code, relating to local government.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 6254.1 is added to the Government Code, to read:

6254.1. Nothing in this chapter or other provision of law shall be construed to require the disclosure of a memorandum submitted to the legislative body of a local agency by its legal counsel pursuant to Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

SEC. 2. Section 54956.8 is added to the Government Code, to read:

54956.8. Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For the purpose of this section, the negotiator may be a member of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

SEC. 3. Section 54956.9 is added to the Government Code, to read:

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency; or

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state publicly to which subdivision it is pursuant. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The legal counsel of the legislative body of the local agency shall prepare and submit to the body a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subdivision (a), the memorandum shall include the title of the litigation. If the closed session is pursuant to subdivision (b) or (c), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the body prior to the closed session if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.1.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

CHAPTER 1127

An act to amend Section 2016 of the Code of Civil Procedure, to amend Section 1040 of the Evidence Code, and to amend Sections 322, 1094, 1095, and 2714 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Section 2016 of the Code of Civil Procedure is amended to read:

2016. (a) Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. The depositions may be taken in an action at any time after the service of the summons or in a special proceeding after the service of the petition or after the appearance of the defendant or respondent. After commencement of the action or proceedings, the deposition may be taken without leave of court, except that leave of court, granted with or without notice, and for good cause shown, must be obtained if the notice of the taking of the deposition is served by the plaintiff within 20 days after service of the summons or petition on, or appearance of, the defendant or respondent. The attendance of witnesses or the production of books, documents, or other things at depositions may be compelled by the use of subpoena as provided in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4.

(b) Unless otherwise ordered by the court as provided by subdivision (b) or (d) of Section 2019, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party, or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence. All matters which are privileged against disclosure upon the trial under the law of this state are privileged against disclosure through any discovery procedure. This article shall not be construed to change the law of this state with respect to the existence of any privilege, whether provided for by statute or by judicial decision.

The work product of an attorney shall not be discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing his claim or defense or will

result in an injustice. and any writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories shall not be discoverable under any circumstances.

(c) Information specified in subdivision (k) of Section 1095 and subdivision (b) of Section 2714 of the Unemployment Insurance Code held by the Employment Development Department relating to a person shall not be considered privileged or confidential subject matter and shall be disclosed to law enforcement agencies in accordance with the provisions of those subdivisions if an arrest warrant has been issued for the person for commission of a felony.

(d) Examination and cross-examination of deponents may proceed as permitted at the trial.

(e) At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party to the record of any civil action or proceeding or of a person for whose immediate benefit said action or proceeding is prosecuted or defended, or of anyone who at the time of taking the deposition was an officer, director, superintendent, member, agent, employee, or managing agent of any such party or person may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (i) that the witness is unavailable as a witness within the meaning of Section 240 of the Evidence Code, (ii) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used, or (iii) that the witness resides more than 150 miles from the place of the trial, hearing, or proceeding.

(4) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any party may introduce any other parts.

Substitution of parties does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

(f) Subject to the provisions of subdivision (c) of Section 2021, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then

present and testifying.

(g) A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. Except where the deposition is used under the provisions of paragraph (2) of subdivision (d), the introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent, or for explaining or clarifying portions of the said deposition offered by an adverse party, makes the deponent the witness of the party introducing the deposition, as to the portions of the deposition introduced by said party. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by another party.

(h) It is the policy of this state (i) to preserve the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of such cases and (ii) to prevent an attorney from taking undue advantage of his adversary's industry or efforts.

SEC. 2. Section 1040 of the Evidence Code is amended to read:

1040. (a) As used in this section, "official information" means information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so and:

(1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state; or

(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered.

(c) Notwithstanding any other provision of law, the Employment Development Department shall disclose to law enforcement agencies, in accordance with the provisions of subdivision (k) of Section 1095 and subdivision (b) of Section 2714 of the Unemployment Insurance Code, information in its possession relating to any person if an arrest warrant has been issued for the person for commission of a felony.

SEC. 3. Section 322 of the Unemployment Insurance Code is amended to read:

322. (a) The department may exchange information with other governmental departments and agencies, both federal and state,

which are concerned with the administration of unemployment insurance, or the collection of taxes which may be used to finance the administration of unemployment insurance, or the relief of unemployed or destitute individuals, or legislation concerning, regulating, or in any manner affecting the obligations arising out of an employer-employee relation, and with such other departments or agencies of government as the department deems necessary or desirable for the proper administration of this division in accordance with authorized regulations.

(b) The department shall disclose to law enforcement agencies, in accordance with the provisions of subdivision (k) of Section 1095 and subdivision (b) of Section 2714, information in its possession relating to any person who has applied for or received benefits under this code if an arrest warrant has been issued for the person for commission of a felony.

SEC. 4. Section 1094 of the Unemployment Insurance Code is amended to read:

1094. (a) Except as otherwise specifically provided in this code, the information obtained in the administration of this code shall be for the exclusive use and information of the director in discharge of his or her duties and shall not be open to the public, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code, one arising out of the provisions of Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services, or a proceeding to determine entitlement to, and directly connected with and limited to the administration of, locally provided general relief or assistance benefits or medical assistance services. This information may be tabulated and published in statistical form for the use and information of state departments and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of the tabulation or publication.

(b) Notwithstanding subdivision (a), the department shall disclose to law enforcement agencies, in accordance with the provisions of subdivision (k) of Section 1095 and subdivision (b) of Section 2714, information in its possession relating to any person who has applied for or received benefits under this code if an arrest warrant has been issued for the person for commission of a felony.

SEC. 5. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(c) To furnish an employer or his or her authorized agent with

information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000). This subdivision, as it relates to Division 3 (commencing with Section 9000), shall apply only to subdivision (j) of this section.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his or her representatives or the State Director of Health Services or his or her representatives, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with and limited to the administration of public social services.

(f) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(g) To enable county district attorneys, or their representatives, to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(h) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(i) To enable county departments of collection or their representatives to determine entitlement to medical assistance services rendered pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and, when appropriate, to enable collection for the county's expenditures for these medical assistance services.

(j) To furnish an employer, or his or her authorized agent, with information including, but not limited to, the applicant's or recipient's name, social security number, address, employable skills, and job placement in order to enable him or her to fully discharge his or her obligations or safeguard his or her rights under the elements of a joint union, management, and Employment Development Department agreement as are deemed necessary to assist displaced workers to obtain new employment under the provisions of Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3 and related provisions of Division 3 (commencing with Section 9000). The information shall be limited to any information gathered under these divisions by the department and authorized for release by the labor organization which shall act as an agent for the affected workers under terms of the agreement and shall participate in defining the information release provisions.

(k) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, and

physical description of any person who has applied for or received benefits under this code, if an arrest warrant has been issued for the person for commission of a felony. The information shall be released to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the department. The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant.

(1) This subdivision shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

(2) The provisions of this subdivision shall be operative only to the extent permitted by federal law and regulation, and to the extent the information is available and accessible within the constraints and configurations of existing department records.

(3) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(*l*) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

SEC. 6. Section 2714 of the Unemployment Insurance Code, as amended by Section 1 of Chapter 974 of the Statutes of 1983, is amended to read:

2714. (a) All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his or her disability. These records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services. The department may reveal its records to the Director of Social Services or his or her representatives, and may make available to the Department of Rehabilitation all records in the case file of a claimant, but the information shall remain confidential and shall not be disclosed except as provided herein. The department shall not make available to the Department of Rehabilitation any records in the case file of a claimant who requests that these records not be made available to the Department of Rehabilitation, and shall provide each claimant

an opportunity to make this request when a claim for disability benefits is made.

(b) The department shall, to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records, provide to any law enforcement agency the name, address, telephone number, birth date, social security number, and physical description of any person who has applied for or received benefits under this part, if a warrant has been issued for the person for commission of a felony. The information shall be released to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the department. The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant. This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(c) This section shall remain in effect until January 1, 1986, and on that date is repealed.

SEC. 7. Section 2714 of the Unemployment Insurance Code, as added by Section 2 of Chapter 974 of the Statutes of 1983, is amended to read:

2714. (a) All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his or her disability. These records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services. The department may reveal its records to the Director of Social Services or his or her representatives, and may reveal the identity only of the claimant to the Department of Rehabilitation, but the information shall remain confidential and shall not be disclosed except as provided herein.

(b) The department shall, to the extent permitted by federal law and regulations, and to the extent the information is available and

accessible within the constraints and configurations of existing department records, provide to any law enforcement agency the name, address, telephone number, birth date, social security number, and physical description of any person who has applied for or received benefits under this part, if a warrant has been issued for the person for commission of a felony. The information shall be released to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the department. The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant. This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(c) This section shall become operative on January 1, 1986.

CHAPTER 1128

An act to repeal Chapter 9 (commencing with Section 90100) of Part 55 of Division 8 of Title 3 of, and Chapter 7 (commencing with Section 92660) of Part 57 of Division 9 of Title 3 of, the Education Code, to repeal Sections 33422, 33422.2, and 33427 of, the Health and Safety Code, to amend Sections 20751 and 20761 of, to amend the heading of Article 1 (commencing with Section 20100), the heading of Article 2 (commencing with Section 20105), the heading of Article 3 (commencing with Section 20110), the heading of Article 3.5 (commencing with Section 20120), the heading of Article 3.6 (commencing with Section 20150), the heading of Article 4 (commencing with Section 20160), the heading of Article 4.5 (commencing with Section 20185), the heading of Article 4.7 (commencing with Section 20189), the heading of Article 5 (commencing with Section 20190), the heading of Article 6 (commencing with Section 20200), the heading of Article 6.5 (commencing with Section 20202.1), the heading of Article 7 (commencing with Section 20210), the heading of Article 8 (commencing with Section 20220), the heading of Article 9 (commencing with Section 20230), the heading of Article 10 (commencing with Section 20240), the heading of Article 11 (commencing with Section 20250), the heading of Article 12 (commencing with Section 20260), the heading of Article 13

(commencing with Section 20270), the heading of Article 14
(commencing with Section 20280), the heading of Article 15
(commencing with Section 20290), the heading of Article 16
(commencing with Section 20300), the heading of Article 17
(commencing with Section 20310), the heading of Article 18
(commencing with Section 20320), the heading of Article 19
(commencing with Section 20330), the heading of Article 20
(commencing with Section 20340), the heading of Article 21
(commencing with Section 20350), the heading of Article 22
(commencing with Section 20360), the heading of Article 23
(commencing with Section 20370), the heading of Article 24
(commencing with Section 20380), the heading of Article 25
(commencing with Section 20390), the heading of Article 26
(commencing with Section 20400), the heading of Article 27
(commencing with Section 20410), the heading of Article 28
(commencing with Section 20470), the heading of Article 29
(commencing with Section 20480), the heading of Article 30
(commencing with Section 20500), the heading of Article 31
(commencing with Section 20510), the heading of Article 32
(commencing with Section 20520), the heading of Article 33
(commencing with Section 20530), the heading of Article 34
(commencing with Section 20550), the heading of Article 35
(commencing with Section 20560), the heading of Article 36
(commencing with Section 20580), the heading of Article 37
(commencing with Section 20600), the heading of Article 38
(commencing with Section 20620), the heading of Article 39
(commencing with Section 20630), the heading of Article 40
(commencing with Section 20640), the heading of Article 41
(commencing with Section 20650), the heading of Article 42
(commencing with Section 20670), the heading of Article 43
(commencing with Section 20680), the heading of Article 44
(commencing with Section 20690), the heading of Article 45
(commencing with Section 20710), the heading of Article 46
(commencing with Section 20720), the heading of Article 47
(commencing with Section 20730), the heading of Article 48
(commencing with Section 20750), the heading of Article 49
(commencing with Section 20760), the heading of Article 50
(commencing with Section 20780), the heading of Article 51
(commencing with Section 20790), the heading of Article 52
(commencing with Section 20800), the heading of Article 53
(commencing with Section 20810), the heading of Article 54
(commencing with Section 20820), the heading of Article 55
(commencing with Section 20830), the heading of Article 56
(commencing with Section 20840), the heading of Article 57
(commencing with Section 20850), the heading of Article 58
(commencing with Section 20880), the heading of Article 59
(commencing with Section 20890), the heading of Article 60
(commencing with Section 20910), of Chapter 1 of Part 3 of Division 2 of, to add Chapter 2.1 (commencing with Section 10500) and

Chapter 2.5 (commencing with Section 10700), to Part 2 of Division 2 of, to add Article 43.1 (commencing with Section 20688.1) to Chapter 1 of Part 3 of Division 2 of, and to add Chapter 1.5 (commencing with Section 20930) to Part 3 of Division 2 of, the Public Contract Code, to amend Section 3 of Chapter 349 of the Statutes of 1873–74, to amend Section 6 of Chapter 201 of the Statutes of 1895, to amend Section 8 of Chapter 222 of the Statutes of 1909, to amend Section 9 of Chapter 354 of the Statutes of 1919, to amend Section 61 of Chapter 2146 of the Statutes of 1959, to amend Section 16 of Chapter 1069 of the Statutes of 1961, to amend Section 16 of Chapter 1435 of the Statutes of 1961, to amend Section 16 of Chapter 28 of the Statutes of the 1962 First Extraordinary Session, to amend Section 15 of Chapter 40 of the Statutes of the 1962 First Extraordinary Session, to amend Section 16 of Chapter 1175 of the Statutes of 1969, to repeal Section 26 of Chapter 201 of the Statutes of 1895, to repeal Sections 49 and 141 of Chapter 238 of the Statutes of 1903, to repeal Section 12 of Chapter 310 of the Statutes of 1905, to repeal Section 48 of Chapter 25 of the Statutes of 1907, to repeal Sections 15, 15a, and 15b of Chapter 755 of the Statutes of 1915, to repeal Sections 10, 11, 13, 14, 15, and 24b of Chapter 354 of the Statutes of 1919, to repeal Sections 2.13, 15, 15a, 15b, and 15.1 of Chapter 723 of the Statutes of 1927, to repeal Section 20 of Chapter 808 of the Statutes of 1927, to repeal Section 36 of Chapter 924 of the Statutes of 1933, to repeal Section 10 of Chapter 78 of the Statutes of 1935, to repeal Section 20 of Chapter 73 of the Statutes of 1939, to repeal Sections 23 and 23.1 of Chapter 44 of the Statutes of the 1944 Fourth Extra Session, to repeal Section 24 of Chapter 939 of the Statutes of 1945, to repeal Section 29 of Chapter 1122 of the Statutes of 1945, to repeal Sections 23 and 23.5 of Chapter 1294 of the Statutes of 1945, to repeal Section 8.3 of Chapter 1501 of the Statutes of 1945, to repeal Section 23 of Chapter 699 of the Statutes of 1947, to repeal Section 10 of Chapter 994 of the Statutes of 1949, to repeal Section 10 of Chapter 995 of the Statutes of 1949, to repeal Section 22 of Chapter 1275 of the Statutes of 1949, to repeal Section 23 of Chapter 1405 of the Statutes of 1951, to repeal Section 23 of Chapter 1449 of the Statutes of 1951, to repeal Section 10 of Chapter 1544 of the Statutes of 1951, to repeal Section 22 of Chapter 1617 of the Statutes of 1951, to repeal Section 8.3 of Chapter 1656 of the Statutes of 1951, to repeal Section 10 of Chapter 1657 of the Statutes of 1951, to repeal Sections 3.6 and 8.3 of Chapter 10 of the Statutes of the 1952 First Extraordinary Session, to repeal Section 20 of Chapter 17 of the Statutes of the 1952 First Extraordinary Session, to repeal Section 22 of Chapter 666 of the Statutes of 1953, to repeal Section 29 of Chapter 1532 of the Statutes of 1953, to repeal Section 27 of Chapter 1598 of the Statutes of 1953, to repeal Section 24 of Chapter 166 of the Statutes of 1955, to repeal Section 23 of Chapter 1057 of the Statutes of 1955, to repeal Sections 51, 52, 53, 54, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, and 128 of Chapter 1489 of the Statutes of 1955, to repeal Section 25 of Chapter 46 of the Statutes

of the 1956 Extraordinary Session, to repeal Section 12 of Chapter 1234 of the Statutes of 1957, to repeal Section 15 of Chapter 1280 of the Statutes of 1957, to repeal Section 70 of Chapter 1512 of the Statutes of 1957, to repeal Sections 12 and 12.1 of Chapter 788 of the Statutes of 1959, to repeal Section 12 of Chapter 2036 of the Statutes of 1959, to repeal Section 12 of Chapter 2088 of the Statutes of 1959, to repeal Section 25 of Chapter 2108 of the Statutes of 1959, to repeal Section 16 of Chapter 2114 of the Statutes of 1959, to repeal Section 16 of Chapter 2121 of the Statutes of 1959, to repeal Section 44 of Chapter 2122 of the Statutes of 1959, to repeal Section 16 of Chapter 2123 of the Statutes of 1959, to repeal Section 16 of Chapter 2127 of the Statutes of 1959, to repeal Section 42 of Chapter 2131 of the Statutes of 1959, to repeal Section 12 of Chapter 2137 of the Statutes of 1959, to repeal Section 43 of Chapter 2139 of the Statutes of 1959, to repeal Section 22 of Chapter 2146 of the Statutes of 1959, to repeal Section 12 of Chapter 1003 of the Statutes of 1961, to repeal Section 44 of Chapter 1896 of the Statutes of 1961, to repeal Section 33 of Chapter 55 of the Statutes of the 1966 First Extraordinary Session, to repeal Section 22 of Chapter 166 of the Statutes of 1967, to repeal Sections 150, 151, 152, 153, 154, 155, and 156 of Chapter 209 of the Statutes of 1969, to repeal Sections 254 and 750 of Chapter 916 of the Statutes of 1969, to repeal Section 25 of Chapter 1149 of the Statutes of 1969, to repeal Section 40 of Chapter 1236 of the Statutes of 1969, to repeal Chapter 5 (commencing with Section 155) of Part 4 of Chapter 1560 of the Statutes of 1971, to repeal Section 15.1 of Chapter 244 of the Statutes of 1973, to repeal Section 23.1 of Chapter 946 of the Statutes of 1974, to repeal Sections 491, 492, and 493 of Chapter 527 of the Statutes of 1977, to repeal Section 27 of Chapter 1311 of the Statutes of 1982, and to repeal Section 408 of Chapter 926 of the Statutes of 1983, relating to public contracts.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

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

SECTION 1. Chapter 9 (commencing with Section 90100) of Part 55 of Division 8 of Title 3 of the Education Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 92660) of Part 57 of Division 9 of Title 3 of the Education Code is repealed.

SEC. 2.5. Section 33422 of the Health and Safety Code is repealed.

SEC. 2.6. Section 33422.2 of the Health and Safety Code is repealed.

SEC. 2.7. Section 33427 of the Health and Safety Code is repealed.

SEC. 3. Chapter 2.1 (commencing with Section 10500) is added to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 2.1. UNIVERSITY OF CALIFORNIA COMPETITIVE BIDDING

Article 1. Construction

10500. As used in this article, "project" includes the erection, construction, alteration, repair, or improvement of any University of California structure, building, road, or other improvement which will exceed in cost a total of fifteen thousand dollars ($15,000).

10501. Except as provided for in this article, the Regents of the University of California shall let any contract for a project to the lowest responsible bidder or else reject all bids. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for a project to execute a tendered contract, award it to the second lowest responsible bidder. If the second lowest bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder.

10502. The Regents of the University of California shall give public notice of a project to bidders by publication once a week for at least two consecutive weeks next preceding the day set for the receiving of bids as follows:

(a) In one newspaper of general circulation published in the county in which the major portion of the project is located and in one such trade paper circulated in the county in which the major portion of the work is to be done.

(b) The notices shall state the time and place for the receiving and opening of sealed bids, describe in general terms the work to be done, and describe the bidding mode by which the lowest responsible bidder will be selected.

10503. Before entering into any contract for a project, the Regents of the University of California shall cause to be prepared estimates and either:

(a) Complete plans and specifications setting forth such directions as will enable a competent mechanic or other builder to carry them out.

(b) Documents for the solicitation of bids on a design-and-build basis, including: (1) a program setting forth the scope of the project, the size, type, and desired design character of the buildings and the site, (2) a set of performance specifications covering the quality of materials, equipment, and workmanship, (3) a maximum acceptance cost, and (4) a method and grading system for evaluating contractor proposals on the basis of a preliminary design, outline specifications, a price, and the financial condition and relevant experience of the contractor and the contractor's architect.

(c) Documents for the solicitation of bids for construction manager mode of contracting including prequalification standards, schematic plans, and outline specifications indicating the general scope of the project and the designation of those fees and other fixed

commitments upon which prequalified contractors will be invited to submit competitive bids which will serve as the basis for selection.

(d) Documents for the solicitation of bids on a cost-plus fee mode of contracting, including prequalification standards, outline specifications, and schematic drawings generally describing the scope of the work, a definition of reimbursable and nonreimbursable costs, and the designation of fees and other fixed costs upon which prequalified contractors will be invited to submit quotations which will provide the basis for selection.

(e) Documents for the solicitation of bids under such other contracting mode as the regents determine to be in the best interest of the university, provided that such proposals be compared on a uniform basis and that award be made as determined by the published selection standards.

10504. Except as otherwise provided in Section 10506, work on all projects shall be performed under contract awarded in accordance with Section 10401 except that it may be done on a time and materials basis, by contract upon informal bids, by University of California employees, by day labor under the direction of the regents, or by a combination thereof, in case of emergency due to an act of God, earthquake, flood, storm, fire, landslide, public disturbance, vandalism, or failure which causes damage to a university-owned building, university-owned real property or any improvements thereon, when such work or remedial measures are required immediately and are necessary to protect the public health, safety, and welfare.

10505. The Regents of the University of California may perform projects with university employees if the regents deem that the award of a contract, the acceptance of bids or the acceptance of further bids is not in the best interests of the university, provided that (1) the estimated value of work to be so performed shall not exceed twenty thousand dollars ($20,000) or (2) the project is for the erection, construction, alteration, repair or improvement of experimental or diagnostic equipment, except that the provisions of this section shall not apply to the painting or repainting of a structure, building, road, or improvement of any kind if the estimated value of such painting or repainting work exceeds ten thousand dollars ($10,000).

10506. The requirements of Sections 10501, 10502, and 10503 shall not be applicable to (1) any project of which the Regents of the University of California is only part owner, or (2) any project funded by a federal agency to the extent that requirements of Sections 10501, 10502, and 10503 are in conflict with mandatory requirements of such federal agency, or (3) projects performed pursuant to Section 10505.

Article 2. Materials, Goods, and Services

10507. Except as provided for in this article, the Regents of the University of California shall let all contracts involving an

expenditure of more than five thousand dollars ($5,000) annually for goods and materials to be sold to the University of California to the lowest responsible bidder meeting specifications, or else reject all bids. Contracts for services to be performed, other than personal or professional services, involving an expenditure of five thousand dollars ($5,000) or more annually shall be made or entered into with the lowest responsible bidder meeting specifications, or else all bids shall be rejected. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for materials, goods, or services to execute a tendered contract, award it to the second lowest responsible bidder meeting specifications. If the second lowest responsible bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder meeting specifications.

10508. The requirements of this article shall not be applicable when the regents determine that a brand or trade name article, thing, or product or proprietary service is the only one which will properly meet the needs of the University of California because the item or service is unique, available only from a sole source, or is designated to match others, used in, or furnished to, a particular installation, facility, or location. Contracts for unique products or services, or personal or professional services, shall not be made unless the regents determine that the proposed price therefor is reasonable.

10509. The Regents of the University of California shall prescribe methods of procurement for goods, materials, and services to be purchased, including:

(a) Requirements for public advertisement where feasible and practicable or for solicitation from at least three sources in other cases.

(b) Bidder prequalification and evaluation standards.

(c) Guidelines for negotiating contracts for unique products or proprietary services.

(d) Procedures for solicitation of vendor and service contractor interest.

(e) Dissemination of award information.

(f) Such other matters as may encourage the receipt of the most favorable price and conditions of purchase by the university.

10510. The requirements of this article shall not be applicable to the procurement of goods, materials, or services funded exclusively by federal agencies to the extent that the requirements of this article are in conflict with mandatory requirements of such federal agency.

Article 3. Real Property

10511. The Regents of the University of California shall give public notice to bidders of the sale of University of California real property situated in California if the estimated value of the real property to be sold exceeds fifty thousand dollars ($50,000) net to the seller. Notice shall be by publication once a week for at least two

consecutive weeks next preceding the day set for receiving bids, as follows:

(a) In a newspaper of general circulation published in the county in which the property is situated. If the property is situated in more than one county, then such publication shall be in the newspaper in the county containing the greatest area of the property.

(b) In two newspapers of general circulation, one published in Los Angeles and one in San Francisco.

(c) The published notices shall specify the general description of the property and the conditions of sale, and the date and place for the receiving of sealed bids.

10512. On the date designated in the public notice, the sealed bids shall be publicly opened. The regents shall accept in public the bid which offers the combination of price and terms which it deems to be in the best interest of the university, or reject all bids.

10513. The publication and award procedures set forth in this article shall not be applicable to:

(a) The sale of an undivided or fractional ownership interest in real property.

(b) A sale of a right of use in real property which is less than fee ownership.

(c) A sale of real property subject to title conditions or restrictions on the university's ownership deriving from the origin of such ownership by gift, devise, or otherwise, if such sale would be inconsistent with such title conditions or restrictions.

(d) The disposition of realty originally acquired as part of an investment transaction pursuant to which the Regents of the University of California is contractually obligated to resell property to a specified party.

(e) A sale of public lands under the direction of the federal land agent.

(f) A sale to a person or entity which will dedicate the real property to public use.

(g) A sale of real property acquired after the effective date of this chapter through eminent domain proceedings initiated by the Regents of the University of California. In such cases, the person from whom the property was acquired shall be notified and be accorded an exclusive opportunity for 90 days to purchase the property at its fair market value. If the person fails to undertake proceedings to purchase the property within 90 days, the procedures specified in Sections 10511 and 10512 shall then be followed in the sale of the property.

SEC. 4. Chapter 2.5 (commencing with Section 10700) is added to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 2.5. CALIFORNIA STATE UNIVERSITY CONTRACT LAW

Article 1. General Provisions

10700. This chapter may be cited as the California State University Contract Law.

10701. As used in this chapter:

(a) "Project" includes the erection, construction, alteration, painting, repair, or improvement of any state structure, building, road, or other state improvement of any kind which will exceed in cost a total of ten thousand dollars ($10,000).

(b) "Trustees" mean the Trustees of the California State University.

(c) "Service contract" means any contract for services in connection with a project other than a project contract, and includes, but is not limited to, contracts for architectural, engineering, planning, testing, general studies, or feasibility services.

10702. Contracts for the purchase of supplies or materials, which are purchased through the Department of General Services, are not subject to this chapter, even though the seller is required to perform some incidental work or service in connection with the delivery of the material or supplies.

10703. Work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority, is not subject to this chapter, whether or not done under public supervision or paid for in whole or part out of public funds.

10704. The project shall be under the sole and direct control of the trustees, pursuant to the powers and responsibilities invested in them by Chapter 8 (commencing with Section 66600) of Part 40 of Division 5 of Title 3 of the Education Code.

10705. Where the nature of the work in the opinion of the trustees is such that the application of all of the provisions of this chapter in connection therewith are not required, the trustees may, with the approval of the Department of Finance, carry out the project pursuant to this section if the estimated cost does not exceed one hundred thousand dollars ($100,000).

If the estimated total cost of any construction project or work carried out under this section exceeds five thousand dollars ($5,000), the trustees shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. The trustees may carry out work in excess of five thousand dollars ($5,000) under the provisions of this section by day labor if they deem that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state, but the amount of work performed by day labor under this section shall not exceed the sum of twenty thousand dollars ($20,000).

10706. The trustees and the Department of General Services may enter into an agreement under which the Department of General Services will carry out any of the functions of the trustees under this chapter, upon such terms as are mutually agreed upon.

10707. The trustees may enter into service contracts. Such

contracts shall be subject only to Section 10820 and to such other provisions of this chapter, if any, as the trustees may from time to time designate as applicable.

10708. When, in the opinion of the trustees, the best interests of the California State University dictate, the trustees may enter into an agreement with a contractor for both the design and construction of a project under this chapter. The contractor shall design and build the project and present the completed project to the trustees for their approval and acceptance. Work under this section shall be carried out by a contractor chosen by a competitive bidding process which employs selection criteria in addition to cost. Any design work performed pursuant to this section shall be prepared and signed by an architect certificated pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code.

Article 2. Plans and Specifications

10720. Before entering into any contract for a project, the trustees, pursuant to the powers invested in them by Chapter 8 (commencing with Section 66600) of Part 40 of Division 5 of Title 3 of the Education Code, shall cause to be prepared full, complete, and accurate plans and specifications and estimates of cost, giving such directions as will enable any competent mechanic or other builder to carry them out.

10721. The plans, specifications, and estimates of cost shall be approved by the trustees, and the original draft or a certified copy filed permanently in the office of the trustees before further action is taken.

10722. Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to this chapter, except that it may be done by day's labor under the direction of the trustees, by contract upon informal bids, or by a combination thereof:

(a) In case of emergency due to an act of God, earthquake, flood, storm, fire, landslide, public disturbance, or vandalism which causes damage to a state-owned building, state-owned real property, or any improvements thereon, for work and remedial measures which are required immediately and which are necessary to protect the public health, safety, and welfare.

(b) At any time after the approval of plans, specifications, and estimates of cost, if the trustees deem the advertising or award of a contract, the acceptance of any bid, or the acceptance of any further bids after the rejection of all submitted bids, is not in the best interests of the state.

10723. Upon the approval of the trustees the authorized employees of the trustees may, when proceeding upon the basis of day's labor, let any subdivision or unit of the work by contract upon informal bids; but such work shall be let only to a holder of a valid state contractor's license unless such work is exempt from such licensing requirement by any other provision of law.

10724. Bids may be received and contracts awarded on a unit basis, that is, the bids compared upon the basis of estimates of the quantities of the work to be done.

10725. Except in unit basis contracts, contracts shall not be made exceeding in amount the estimates of costs approved by the trustees. Plans and specifications and estimates of costs, including expense of advertising and inspection, shall not be approved by the trustees requiring a greater expenditure of money than is appropriated for the specific purpose in the law authorizing the expenditure.

10726. The trustees may receive bids for the construction of several public works projects at one campus of the California State University as a single project. Where more than one appropriation has been made for the several projects united as a single project under the provisions of this section, payments for the single project shall be made from the separate appropriations on such proportional basis as may be determined by the trustees and approved by the Department of Finance.

Article 3. Advertisement for Bids

10740. When it appears from the estimates of cost that the estimated contract price of any project will not exceed fifteen thousand dollars ($15,000), the trustees may direct that public notice to bidders be given as follows:

(a) By publication for two consecutive insertions in a weekly trade paper of general circulation, published either in Los Angeles or San Francisco, devoted primarily to the dissemination of contract news among contracting firms; and

(b) Once a week for two consecutive weeks in a newspaper of general circulation in the county in which the project is located, or, if located in more than one county in such a newspaper in a county in which a major portion of the work is to be done.

10741. The notices shall state the time and place for the receiving and opening of sealed bids and describe in general terms the work to be done.

10742. When it appears that the estimated contract price will exceed fifteen thousand dollars ($15,000), public notice to bidders shall be given by publication once a week for at least two consecutive weeks, or once a week for more than two consecutive weeks if such longer period of advertising is deemed necessary by the trustees, next preceding the day set for the receiving of bids:

(a) In two trade papers of general circulation, one published in Los Angeles and one in San Francisco, devoted primarily to the dissemination of contract and building news among contracting and building material supply firms; or

(b) In the discretion of the trustees, in one newspaper of general circulation published in the county in which the major portion of the project is located, and in one such trade paper published in the county group, as defined in Section 187 of the Streets and Highways

Code, in which the work is to be done.

10743. The notices shall state the time and place for the receiving and opening of sealed bids and that the bids will be required for the entire project and for the performance of segregate designated parts of the entire project, when the trustees determine that segregation is advisable.

Article 4. Bids and Bidders

10760. The trustees may, and on contracts the estimated cost of which exceeds one hundred fifty thousand dollars ($150,000) the trustees shall, require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in performing public works. When completed, the questionnaire and financial statement shall be verified under oath by the bidder in the manner in which pleadings in civil actions are verified.

10761. The trustees shall adopt and apply a uniform system of rating bidders, on the basis of the standard questionnaires and financial statements, in respect to the size of the contracts upon which each bidder is qualified to bid.

10762. In all projects for road, street, and bridge work where federal funds are involved and where a bidder is required to be and has been prequalified pursuant to Sections 10760 and 10761, no bid submitted or contract thereafter awarded shall be invalidated by the failure of the bidder or contractor to be properly licensed in accordance with the laws of this state, nor shall any such contractor be denied payment under any such contract because of such failure; provided, however, that the first payment for work or material under such contract shall not be made by the Controller unless and until the Registrar of Contractors certifies to him that the records of the Contractors' State License Board indicate that such contractor was or became properly licensed between the time of bid opening and the making of the certification. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by such laws, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board, and the trustees shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement.

10763. The questionnaires and financial statements are not public records and are not open to public inspection.

10764. The trustees shall furnish to each bidder a standard proposal form, which, when filled out and executed, may be submitted as the bid. Bids not presented on forms so furnished shall be disregarded. The trustees shall not furnish proposal forms to any person who is required to submit and has not submitted a questionnaire and financial statement for prequalification at least five days prior to the date fixed for publicly opening sealed bids and

been prequalified for at least one day prior to that date.

10765. All bids shall be presented under sealed cover and accompanied by one of the following forms of bidder's security: cash, a cashier's check, certified check, or a bidder's bond executed by an admitted surety insurer, made payable to the trustees. The security shall be in an amount equal to at least 10 percent of the amount bid. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it.

10766. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

10767. Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids only by written request for the withdrawal of the bid filed with the trustees. The request shall be executed by the bidder or his or her duly authorized representative. The withdrawal of a bid does not prejudice the right of the bidder to file a new bid.

This section does not authorize the withdrawal of any bid after the time fixed in the public notice for the opening of bids.

Article 5. Award of Contracts

10780. On the day named in the public notice the trustees shall publicly open the sealed bids and award the contracts to the lowest responsible bidders.

10781. If the successful bidder fails to execute the contract, the bidder's security shall be forfeited to the state. The cash or proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of cost, and publication of notice are paid.

10782. If the trustees deem it is for the best interest of the state, they may, on the refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder.

If the second lowest responsible bidder fails or refuses to execute the contract, the trustees may likewise award it to the third lowest responsible bidder.

On the failure or refusal of the second or third lowest bidder, to whom a contract is so awarded, to execute it, the bidder's security shall be likewise forfeited to the state.

10783. The failure of the successful bidder to furnish any bond required by law, within the time fixed for execution of the contract, constitutes a failure to execute the contract.

10784. The bidder's security of the second and third lowest responsible bidders may be withheld until the contract has been finally executed. The cash, cashier's checks, and certified checks submitted by all other unsuccessful bidders shall be returned to them within 10 days after the contract is awarded, and their bidders' bonds shall be of no further effect.

10785. If the trustees deem the acceptance of the lowest

responsible bid or bids is not for the best interests of the state, they may reject all bids and proceed by day's labor or advertise for other bids in the manner required by this chapter.

Article 6. Relief of Bidders

10800. A bidder shall not be relieved of his or her bid nor shall any change be made in his or her bid because of mistake, but the bidder may bring an action against the trustees in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount forfeited, without interest or costs.

The bond of an admitted surety insurer shall be filed with the complaint, in such sum as the court may fix, but not less than five hundred dollars ($500), conditioned that, if the plaintiff fails to recover judgment, he or she shall pay all costs incurred by the trustees in the suit, including a reasonable attorney's fee to be fixed by the court.

10801. The complaint shall be filed, and summons served on the trustees, or an appearance made, within 90 days after the opening of the bid; otherwise, the action shall be dismissed.

10802. The bidder shall establish to the satisfaction of the court that:

(a) A mistake was made.

(b) He or she gave the trustees written notice within five days after the opening of the bids of the mistake, specifying in the notice in detail how the mistake occurred.

(c) The mistake made the bid materially different than he or she intended it to be.

(d) The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site or the work, or in reading the plans or specifications.

10803. Other than the notice to the trustees, no claim is required to be filed before bringing the action.

10804. A bidder who claims a mistake or who forfeits the bid security shall be prohibited from participating in further bidding on the project on which the mistake was claimed or security forfeited.

10805. In all actions brought under the provisions of this article, all courts wherein such actions are or may hereafter be pending, shall give such actions preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined.

Article 7. Contract Requirements

10820. Every contract awarded under this chapter shall be submitted to the Attorney General or the attorney appointed according to law and authorized to represent the trustees. Such a contract is not binding on the state until the appropriate attorney

finds it to be in accordance with the requirements of this chapter, and endorses such finding thereon.

A certified copy of each contract shall be filed with the Controller, but the failure to so file does not invalidate it.

10821. Every contract shall provide for the filing of separate performance and payment bonds by the contractor executed by an admitted surety insurer, subject to the approval of the trustees.

10822. Each bond shall be in a sum equal to at least one-half of the contract price, except as otherwise provided in Section 3248 of the Civil Code.

10823. The payment bond shall secure the payment of the claims of laborers, mechanics, or materialmen employed on the work under the contract and shall contain all other provisions required by law.

10824. The performance bond shall guarantee the faithful performance of the contract by the contractor.

10825. No payment shall be made upon the contract to the contractor or any assignee of the contractor until an order by the trustees that a sufficient surety be substituted on the bond, or that a new, additional, or supplemental bond be given, is satisfied.

10826. Every contract shall contain a provision in regard to the time when the whole or any specified portion of the work contemplated shall be completed, and shall provide that for each day completion is delayed beyond the specified time, the contractor shall forfeit and pay to the state a specified sum of money, to be deducted from any payments due or to become due to the contractor. The sum so specified is valid as liquidated damages unless manifestly unreasonable under the circumstances existing at the time the contract was made. A contract for a road project may also provide for the payment of extra compensation to the contractor, as a bonus for completion prior to the specified time, such provision, if used, to be included in the specifications and to clearly set forth the basis for such payment.

10827. Every contract shall provide that the trustees may make changes in the plans and specifications pursuant to this chapter.

Article 8. Modifications; Performance; Payment

10840. The trustees may increase or decrease quantities of work to be done under a unit basis contract during the progress of the work.

10841. The trustees may cause the insertion of provisions in any contract for the performance of such extra work and the furnishing of materials therefor by the contractor as the trustees require for the proper completion or construction of the whole work contemplated, if the bidders have equal opportunity of knowing the proposed terms for the extra work.

10842. The trustees may grant such extensions of time for completion as they deem for the best interests of the state.

10843. If the trustees deem that a contractor has failed to supply

an adequate working force, or material of proper quality, or has failed in any other respect to prosecute the work with the diligence and force specified by the contract, the trustees may:

(a) After written notice of at least five days to the contractor, specifying the defaults to be remedied, provide any such labor or materials and deduct the cost from any money due or to become due to the contractor under the contract; or

(b) If the trustees consider that the failure is sufficient ground for such action, they may give written notice of at least five days to the contractor and the contractor's sureties, that if the defaults are not remedied the contractor's control over the work will be terminated.

10844. If the defaults are not remedied within the time specified in the notice, the contractor's control shall terminate as of the expiration of that time.

10845. Upon such termination, the trustees may take possession of and use all or any part of the contractor's materials, tools, equipment, and appliances upon the premises to complete the contract. Thereupon, the trustees may permit the surety to complete or cause the contract work to be completed, or they may direct that all or any part of the work be completed by day's labor or by employment of other contractors on informal contracts, or both.

10846. Such informal contracts may be awarded only after a proposal form has been prepared, a copy is served upon the contractor whose control has been terminated, and upon his or her surety, and three days allowed thereafter so that he or she may cause others to bid. Any person who is prequalified therefor under Article 4 (commencing with Section 10760) of this chapter may bid on informal contracts.

10847. The provisions of this chapter, except as to prequalifications, are not applicable to the award of informal contracts.

10848. If the control of a contractor is terminated or he or she abandons the work, and the work is performed by day's labor or informal contract as provided in Section 10845, he or she is not entitled to receive any portion of the amount to be paid under the contract until it is fully completed. After completion, if the unpaid balance exceeds the sum of the amount expended by the state in finishing the work, plus all damages sustained or to be sustained by the state, the excess not otherwise required by law to be retained shall be paid to the contractor, but if such sum exceeds the unpaid balance, the contractor and his or her surety are liable to the state for the excess. If the surety completes the contract work, as provided in Section 10845, such surety shall be subrogated to money due under the contract and to money which shall become due in the course of completion by the surety, to the extent provided by law.

10849. On the completion of the contract, the original contractor is entitled to the return of all his or her unused materials, and his or her equipment, tools, and appliances, except that he or she shall have no claim on account of usual and ordinary depreciation, loss, and

wear and tear.

10850. The notices required by this article may be served on the contractor or on his or her agent having charge of the work, personally, or by registered mail addressed to the contractor or his or her agent, or, if neither can be located or their addresses are unknown, by posting in a conspicuous place upon the premises of the project.

10851. Payments upon contracts shall be made as the trustees prescribe upon estimates made and approved by the trustees, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to or under the control of the state, and unused. The trustees shall withhold not less than 5 percent of the contract price until final completion and acceptance of the project. The Controller shall draw warrants upon estimates so made and approved by the trustees and the Treasurer shall pay them.

10852. At the request and expense of the contractor, and with the approval of the trustees, any amount withheld pursuant to Section 10851 may be deposited with the Treasurer as the escrow agent, who shall pay such moneys to the contractor upon the placing of securities eligible for the investment of state funds under Section 16430 of the Government Code or bank certificates of deposit into such escrow account by the contractor.

"Approval of the trustees," as used in this section, means that the trustees may, in their discretion, allow or deny the request of the contractor to avail itself of the provisions of this section and that the trustees may, in their discretion, allow the request of the contractor upon the satisfaction of conditions which may be specified by the trustees.

The contractor shall be beneficial owner of any securities in an escrow account pursuant to this section and shall receive any interest thereon.

Any escrow agreement entered into pursuant to this section shall contain as a minimum, the following provisions:

(a) The amount of securities to be deposited; such amount shall not be less than the amount which would otherwise be withheld pursuant to Section 10851;

(b) The terms and conditions of conversion to cash in case of the default of the contractor; and

(c) The termination of the escrow upon completion of the contract.

Article 9. Offenses

10870. Any officer or employee of the trustees who corruptly performs any official act to the injury of the state, is guilty of a felony.

10871. Any contractor or his or her agent or employee who corruptly permits the violation of any contract awarded under this

chapter to the injury of the state is guilty of a felony.

10872. Any subcontractor or agent or employee of any contractor or subcontractor, who has knowledge of any work being done in violation of any contract under this chapter and does not immediately notify the trustees or the inspector or resident engineer upon the project of the violation, is guilty of a felony.

10873. Such felonies are punishable by imprisonment in the state prison.

10874. Such persons are also liable to the state for double the amount the state may have lost, or be liable to lose by reason of the acts made crimes by this article.

SEC. 5. The heading of Article 1 (commencing with Section 20100) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 1. Title

SEC. 6. The heading of Article 2 (commencing with Section 20105) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 2. Schools—State School Building Aid Law of 1949

SEC. 7. The heading of Article 3 (commencing with Section 20110) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 3. School Districts

SEC. 8. The heading of Article 3.5 (commencing with Section 20120) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 3.5. Counties

SEC. 9. The heading of Article 3.6 (commencing with Section 20150) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 3.6. Counties of 500,000 or Less Population

SEC. 10. The heading of Article 4 (commencing with Section 20160) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 4. Cities

SEC. 11. The heading of Article 4.5 (commencing with Section 20185) of Chapter 1 of Part 3 of Division 2 of the Public Contract

Code is amended to read:

Article 4.5. Local Agencies—Earthquake Relief

SEC. 11.5. The heading of Article 4.7 (commencing with Section 20189) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 4.7. Port Districts

SEC. 12. The heading of Article 5 (commencing with Section 20190) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 5. Municipal Utility Districts

SEC. 13. The heading of Article 6 (commencing with Section 20200) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 6. Public Utility Districts

SEC. 14. The heading of Article 6.5 (commencing with Section 20202.1) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 6.5. Public Utility Districts

SEC. 15. The heading of Article 7 (commencing with Section 20210) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 7. Transit Districts—Alameda and Contra Costa Counties

SEC. 16. The heading of Article 8 (commencing with Section 20220) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 8. San Francisco Bay Area Rapid Transit District

SEC. 17. The heading of Article 9 (commencing with Section 20230) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 9. Southern California Rapid Transit District

SEC. 18. The heading of Article 10 (commencing with Section 20240) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 10. Orange County Transit District

SEC. 19. The heading of Article 11 (commencing with Section 20250) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 11. Stockton Metropolitan Transit District

SEC. 20. The heading of Article 12 (commencing with Section 20260) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 12. Marin County Transit District

SEC. 21. The heading of Article 13 (commencing with Section 20270) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 13. San Diego County Transit District

SEC. 22. The heading of Article 14 (commencing with Section 20280) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 14. Santa Barbara Metropolitan Transit District

SEC. 23. The heading of Article 15 (commencing with Section 20290) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 15. Santa Cruz Metropolitan Transit District

SEC. 24. The heading of Article 16 (commencing with Section 20300) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 16. Santa Clara County Transit District

SEC. 25. The heading of Article 17 (commencing with Section 20310) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 17. Greater Bakersfield Metropolitan Transit District

SEC. 26. The heading of Article 18 (commencing with Section 20320) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 18. Sacramento Regional Transit District

SEC. 27. The heading of Article 19 (commencing with Section 20330) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 19. San Mateo County Transit District

SEC. 28. The heading of Article 20 (commencing with Section 20340) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 20. Transit Development Boards

SEC. 29. The heading of Article 21 (commencing with Section 20350) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 21. North San Diego County Transit Development Board

SEC. 30. The heading of Article 22 (commencing with Section 20360) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 22. Los Angeles County Transportation Commission

SEC. 31. The heading of Article 23 (commencing with Section 20370) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 23. Fresno Metropolitan Transit District

SEC. 32. The heading of Article 24 (commencing with Section 20380) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 24. West Bay Rapid Transit Authority

SEC. 33. The heading of Article 25 (commencing with Section 20390) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 25. Boards of Supervisors—County Highways

SEC. 34. The heading of Article 26 (commencing with Section 20400) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 26. Boards of Supervisors—County Bridges or Subways

SEC. 35. The heading of Article 27 (commencing with Section 20410) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 27. Legislative Bodies—Improvement Act of 1911

SEC. 36. The heading of Article 28 (commencing with Section 20470) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 28. Separation of Grade Districts

SEC. 37. The heading of Article 29 (commencing with Section 20480) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 29. Public Entities—Municipal Improvement Act of 1913

SEC. 38. The heading of Article 30 (commencing with Section 20500) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 30. City Councils—Street Lighting Act of 1919

SEC. 39. The heading of Article 31 (commencing with Section 20510) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 31. City Councils—Street Lighting Act of 1931

SEC. 40. The heading of Article 32 (commencing with Section 20520) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 32. City Councils—Municipal Lighting Maintainence District Act of 1927

SEC. 41. The heading of Article 33 (commencing with Section 20530) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 33. Joint Highway Districts

SEC. 42. The heading of Article 34 (commencing with Section 20550) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 34. Boulevard Districts

SEC. 43. The heading of Article 35 (commencing with Section 20560) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 35. Irrigation Districts

SEC. 44. The heading of Article 36 (commencing with Section 20580) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 36. Water Storage Districts

SEC. 45. The heading of Article 37 (commencing with Section 20600) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 37. County Waterworks Districts

SEC. 46. The heading of Article 38 (commencing with Section 20620) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 38. County Drainage Districts

SEC. 47. The heading of Article 39 (commencing with Section 20630) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 39. Levee Districts

SEC. 48. The heading of Article 40 (commencing with Section 20640) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 40. Municipal Water Districts

SEC. 49. The heading of Article 41 (commencing with Section 20650) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 41. Community College Districts

SEC. 50. The heading of Article 42 (commencing with Section 20670) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 42. Public Entities—Public Work and Public Purchases

SEC. 51. The heading of Article 43 (commencing with Section 20680) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 43. Community Services Districts

SEC. 51.5. Article 43.1 (commencing with Section 20688.1) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 43.1. Redevelopment Agencies

20688.1. The provisions of this article shall apply to contracts awarded by entities as provided in Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

20688.2. Any work of grading, clearing, demolition, or construction undertaken by the agency shall be done by contract after competitive bids if the cost of such work exceeds the amount specified in Section 37902 of the Government Code, as that section presently exists or may be hereafter amended. With respect to work of grading, clearing, demolition, or construction which is not in excess of such amount, the agency may contract the work without competitive bids, and in contracting such work may give priority to the residents of such redevelopment project areas and to persons displaced from such areas as a result of redevelopment activities.

20688.3. (a) To the greatest extent feasible, opportunities for training and employment arising from any contract for work to be performed in connection with any redevelopment project shall be given to the lower income residents of the project area.

(b) An agency with a resident population of less than 1,000 persons in its territorial jurisdiction, and with a secured assessed valuation of not more than thirty million dollars ($30,000,000) as shown on the 1978–79 assessment roll, may, by contract, obligate lessees and purchasers of real property acquired in a redevelopment project and owners of property improved as part of a redevelopment project to give preference to training and employment, in businesses to be conducted on the property, to residents of the project area upon such terms and conditions as may be mutually agreed upon. In the event that there is an agreement between the employer and a labor organization which restricts the employer's ability to employ project area residents, then such labor organization shall give preference as to entry into the particular labor organization, and with respect to employment in a business on the property, to residents of the project area otherwise qualified.

20688.4. An agency shall require each successful bidder to file with it good and sufficient bonds, to be approved by it. The bonds shall be conditioned upon the faithful performance of the contract

and upon the payment of all claims for labor and material in connection with the contract. The bonds shall contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code and are subject to the provisions of that chapter.

SEC. 52. The heading of Article 44 (commencing with Section 20690) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 44. County Harbor Commissions

SEC. 53. The heading of Article 45 (commencing with Section 20710) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 45. Harbor Improvement Districts

SEC. 54. The heading of Article 46 (commencing with Section 20720) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 46. Harbor Districts

SEC. 55. The heading of Article 47 (commencing with Section 20730) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 47. Small Craft Harbor Districts

SEC. 56. The heading of Article 48 (commencing with Section 20750) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 48. Port Districts

SEC. 56.5. Section 20751 of the Public Contract Code is amended to read:

20751. Contracts for the doing of new construction work, the cost of which exceeds ten thousand dollars ($10,000), or the purchasing of supplies, the cost of which exceeds twenty-five thousand dollars ($25,000), or projects involving maintenance of buildings and improvements, the cost of which exceeds ten thousand dollars ($10,000), shall be let by the board upon competitive bidding.

Notice of the proposed letting of contract shall be given by publication pursuant to Section 6061 of the Government Code in the county in which the district is located, at least five days before the time fixed for opening bids. Bidding shall be by sealed proposals filed with the district, upon forms furnished by it, and under such rules and regulations as the board may prescribe. All bids shall be publicly

opened and declared under procedures established by the board, and the award of the contract shall be made in open session of the board to the lowest and best responsible bidder.

SEC. 57. The heading of Article 49 (commencing with Section 20760) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 49. River Port Districts

SEC. 57.5. Section 20761 of the Public Contract Code is amended to read:

20761. Contracts for the doing of new construction work, the cost of which exceeds ten thousand dollars ($10,000), or the purchasing of supplies, the cost of which exceeds twenty-five thousand dollars ($25,000), or projects involving maintenance of buildings and improvements, the cost of which exceeds ten thousand dollars ($10,000), shall be let by the board upon competitive bidding.

Notice of the proposed letting of a contract shall be given by publication pursuant to Section 6061 of the Government Code in the county in which the district is located, at least five days before the time fixed for opening bids. Bidding shall be by sealed proposals filed with the district upon forms furnished by it, and under such rules and regulations as the board may prescribe. All bids shall be publicly opened and declared under procedures established by the board, and the award of the contracts shall be made in open session of the board to the lowest and best responsible bidder. The board may reject any and all bids and readvertise in its discretion.

SEC. 58. The heading of Article 50 (commencing with Section 20780) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 50. Sanitation Districts

SEC. 59. The heading of Article 51 (commencing with Section 20790) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 51. Sewer Maintenance Districts

SEC. 60. The heading of Article 52 (commencing with Section 20800) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 52. Sanitary Districts

SEC. 61. The heading of Article 53 (commencing with Section 20810) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 53. Fire Protection Districts

SEC. 62. The heading of Article 54 (commencing with Section 20820) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 54. Public Entities—Community Facilities Law of 1911

SEC. 63. The heading of Article 55 (commencing with Section 20830) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 55. Highway Lighting Districts

SEC. 64. The heading of Article 56 (commencing with Section 20840) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 56. Maintenance Districts—Improvement Act of 1911

SEC. 65. The heading of Article 57 (commencing with Section 20850) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 57. Public Entities—Improvement Act of 1911

SEC. 66. The heading of Article 58 (commencing with Section 20880) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 58. Public Entities—Improvement Act of 1911

SEC. 67. The heading of Article 59 (commencing with Section 20890) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 59. Public Entities—Tree Planting Act of 1931

SEC. 68. The heading of Article 60 (commencing with Section 20910) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 60. Bridge and Highway Districts

SEC. 69. Chapter 1.5 (commencing with Section 20930) is added to Part 3 of Division 2 of the Public Contract Code, to read:

CHAPTER 1.5. WATER DISTRICT ACTS

Article 61. Levee District No. 1 of Sutter County

20930. The provisions of this article shall apply to contracts by Levee District No. 1 of Sutter County, as provided for in Chapter 349 of the Statutes of 1873–74.

20931. The board shall annually cause to be prepared, and shall adopt, plans and specifications of all necessary repairs to the levees of said district and of any new levees to be constructed and all other works of improvement for the benefit of the district, and shall divide such work into convenient sections. Said plans and specifications shall be filed in the office of the board not later than the first day of July of each year and shall be subject to inspection by any person interested therein for at least two weeks prior to the letting of any contract for work in accordance with such plans and specifications. If the cost of repair or construction in any one of said sections will exceed the sum of five hundred dollars ($500) the board must, not later than the first day of July in each year, give notice by publication at least once a week for two consecutive weeks in one or more newspapers printed and published in said Sutter County, that sealed proposal will be received and opened at the office of said board, at a time in said notice specified, for the construction of repairs, new levees, and other works of improvement in each separate section of said work, and for the whole work, in accordance with said plans and specifications. At the time and place specified in said notice the board shall publicly open said bids and let the contract or contracts to the lowest responsible bidder or bidders; provided, however that the board may reject any and all bids. If any or all such bids are rejected the board shall immediately readvertise for bids, as in the first instance, for such work as has not been let and upon the opening and consideration of such new bids the board shall have the right to reject any or all of them and have such work done by day's work. Every person, firm or corporation to whom a contract shall be awarded shall enter into a bond with sufficient sureties, to be approved by the board, in a sum equal to one-half of the contract price, conditioned for the faithful performance of said contract in accordance with said plans and specifications. In cases of great emergency the board may, by the unanimous consent of all the members, proceed at once to replace or repair any and all levees in the district without notice.

In case of vacancy in the office of any director or directors of said district by reason of death, resignation, or other cause (whether the same shall occur before or after the effective date of this act), the board of supervisors of Sutter County shall have power to fill the same by appointment. The person or persons so appointed to fill such vacancy or vacancies shall hold office until the first Monday in March following the next election in the district at which directors are to be elected and until his or their successor or successors have been

elected and qualify.

Article 62. Protection Districts

20940. The provisions of this article shall apply to contracts by protection districts as provided for in Chapter 201 of the Statutes of 1895.

20941. All work done in any district shall be ordered by the board of supervisors of the county in which said district is located and shall be under the direction of the county surveyor or county engineer. All work which shall exceed an estimated cost of one thousand dollars ($1,000) shall be advertised and let to the lowest bidder; provided, however, that at the time floodwaters shall threaten the levee of a district the board of supervisors may order emergency work done without advertising for bids therefor. As soon as said district is formed, the board shall cause a survey of the contemplated improvements to be made, or adopt a survey already made, and shall also cause a map of such survey, and plans and specifications showing such improvements in detail, to be prepared, and they shall adopt such surveys, maps, plans, and specifications, and thereafter all such improvements shall be made in accordance with the surveys, maps, plans, and specifications so adopted; provided, that at any time after the adoption of said surveys, maps, plans, and specifications, and before the commissioner's report of assessment of benefits and award of damages has been finally adopted and confirmed by the board, said board may rescind their action in adopting said surveys, maps, plans, and specifications, and may modify the same or adopt others in place thereof, in which case a new assessment shall be made, or may, by a four-fifths vote of the members thereof, abandon the contemplated improvement and dissolve the said protection district, in which case the expenses already incurred in behalf of such district shall be a county charge.

20942. The board of supervisors shall determine the amount of work to be done in each year and the place where such work is to be done, and may let a contract for any portion of such work that they may think proper. When the work is let by contract, either as a whole work or for a portion thereof, the board shall give notice, by publication thereof, not less than 10 days, in a newspaper published in such county, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposal, and how such sealed proposals shall be addressed, which, at the time and place appointed, shall be opened, and, as soon thereafter as convenient, the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may

reject any and all bids and readvertise for proposals. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said county for the use of such protection district, for double the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the board of supervisors.

Article 63. Drainage Districts

20950. The provisions of this article shall apply to contracts by drainage districts, as provided for in Chapter 238 of the Statutes of 1903.

20951. After adopting a plan for such conduits, drains, pumping plants, watergates, and other works which are provided for in this act, the board of directors shall give notice by publication thereof not less than 10 days as required in Section 6062a of the Government Code, in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein) and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed shall be opened in public; and as soon as convenient thereafter the board shall let said work, whether in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded, or the board may reject any or all bids, and may readvertise for proposals. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use for 50 percent of the amount of the contract price, conditioned for the faithful performance of the contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

Contracts under this section calling for an expenditure of less than three thousand five hundred dollars ($3,500) may be let without bid.

20952. The district may enter into contracts or agreements with the State of California or other public districts for the joint construction of and for the joint use and maintenance of evaporation ponds or other works for the disposal of saline drainage waters and for the disposal of salts and other residues developed from the operation of such works.

Article 64. Levee Districts

20960. The provisions of this article shall apply to contracts by levee districts as provided for in Chapter 310 of the Statutes of 1905.

20961. No levees, dikes, or other works for the benefit of said district must be constructed or repaired except on the order of the board of trustees of said district and when such repair or construction will exceed the sum of five hundred dollars ($500) the same must be repaired or constructed under a contract let, after reasonable notice given by the said board of trustees by publishing said notice at least once a week for two weeks in a newspaper published and circulated in said county and designated by said board of trustees. All bids shall be sealed and shall be opened at the time specified in the notice, and the contract awarded to the lowest responsible bidder. The board may, however, reject any and all bids. The contract and bond for its performance must be entered into and approved by the board of trustees, except, however, in cases of great emergency, by the unanimous consent of the whole board of trustees they may proceed at once to replace or repair any and all levees, dikes, or other works of whatever nature without notice. Prior to the publication of the notice of the letting of any contract for the erection or repair of dikes, levees, or other works, the board of trustees must cause to be prepared by a competent engineer, plans and specifications and working details of such work, which said plans and specifications shall be adopted by the board of trustees and filed in the office of said board and shall be subject to inspection by any person for at least two weeks prior to the date of the letting of such contract. The board of trustees must appoint an engineer to supervise the construction, repair, or other works to be done under such plans and specifications and no claim shall be allowed for any work done under any contract let under such plans and specifications without a certificate being first filed in the office of the board of trustees and in the office of the clerk of the board of supervisors of said county signed by said engineer, certifying that such work has been completed and constructed according to the plans and specifications and the terms of the contract. Such engineer shall be paid such compensation as may be agreed upon by the board of trustees and such compensation shall be paid in the same manner as are other claims against said district.

Article 65. Protection Districts

20970. The provisions of this article shall apply to contracts by protection districts as provided for in Chapter 25 of the Statutes of 1907.

20971. After the adoption of a plan of works and providing funds for the construction of the same, and securing the necessary rights of way as in this act provided, the board of directors shall give notice by publication thereof not less than 20 days in one newspaper

published in each of the counties composing the district (provided, a newspaper is published therein) and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed shall be opened in public; and as soon as convenient thereafter the board shall let said work, whether in portions or as a whole, to the lowest responsible bidder; or they may reject any and all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use for 50 percent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

Article 66. Storm Water Districts

20980. The provisions of this article shall apply to contracts by storm water districts as provided for in Chapter 222 of the Statutes of 1909.

20981. All work of construction, repair, or maintenance, the cost whereof exceeds one thousand five hundred dollars ($1,500), shall be done by contract; and all contracts shall be let by the board to the lowest responsible bidder, who will give bond for the faithful performance thereof satisfactory to the board, after advertisement for bids published by their clerk pursuant to Section 6062 of the Government Code in some newspaper of general circulation, designated by the board and published in the county in which the district or some part thereof is situated, specifying the time and place for the opening of bids, and the particular work to be bid for; provided, however, that the board may reject all bids and readvertise, and may by unanimous action in cases of great emergency, the nature of which shall be entered on their minutes, proceed at once to replace or repair any of the works or improvements of the district without advertisement.

Article 67. Los Angeles County Flood Control District

20990. The provisions of this article shall apply to contracts by the Los Angeles County Flood Control District as provided for in Chapter 755 of the Statutes of 1915.

20991. All contracts for any improvement or unit of work, except as hereinafter provided, estimated to cost in excess of twenty-five thousand dollars ($25,000), shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of supervisors of district shall advertise by five or more insertions in a daily newspaper of general circulation, or by two or more insertions in a weekly newspaper of general circulation, printed and published in said district, inviting sealed proposals for the construction of the improvement or work. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds, to be approved by the board, conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code and to be subject to the provisions of that chapter, and shall also have the right to reject any and all bids not suitable to the best interests of the district. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, dam protection, temporary work, maintenance work, or of emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by force account. Emergency work, found by the board of supervisors to be necessary in order to protect life and property from impending flood damage, may also be done by negotiated contract without advertising for bids therefor.

20992. It shall be the duty of the purchasing agent of Los Angeles County, and the ex officio purchasing agent of Los Angeles County Flood Control District, unless otherwise ordered by the board of supervisors, to purchase for the district all materials, supplies, equipment, and other personal property necessary to carry out the purposes of this act, except emergency purchases, and to engage independent contractors to perform sundry services for the district, where the aggregate cost of such work, exclusive of materials to be furnished by the district, does not exceed twenty-five thousand dollars ($25,000). The purchasing agent shall make all such purchases and contracts upon proper requisition therefor, signed by the chief engineer of the district.

20993. Any improvement for which bonds are voted under the provisions of this act shall be made in conformity with the report, plans, specifications, and map theretofore adopted, as above specified, unless the doing of any such work described in the report shall be prohibited by law, or be rendered contrary to the best interests of the district by some change of conditions in relation thereto, in which event the board of supervisors may, by vote of four-fifths of all the members thereof, order necessary changes made

in such proposed work or improvements, and may cause new plans and specifications to be made and adopted therefor.

20994. Any work or improvement provided for in this act may be located, constructed, and maintained in, along, or across any public road or highway in the County of Los Angeles, in such manner as to afford security for life and property, but the board of supervisors of the district shall restore or cause to be restored such road or highway to its former state as near as may be, so as not to impair its usefulness.

20995. The plans and specifications for any work proposed to be done, or improvements to be made, under this act, in any municipality in the district shall first be approved by the legislative body of such municipality before the commencement of such work or improvements, and before any contract shall be let therefor; provided, that in the event such legislative body shall refuse or neglect to approve the said plans and specifications for such work or improvement within 30 days after being requested by the board of supervisors so to do, then the board of supervisors shall omit the doing of such work or making of such improvements within such municipality, and such omission shall not affect the validity of its proceedings under this act, and the funds which were to be expended for such proposed work or improvement in the municipality may be expended elsewhere by the board of supervisors for carrying out the purposes of this act.

20996. The governing body of the district may, upon receiving request therefor, cause to be designed and inserted in the specifications and contract for any flood control channel or storm drain, as to any portion thereof planned to be constructed under this act as an open channel, provision for the construction in conjunction therewith of facilities for the covering or crossing over of any such portion, or a part of such portion if, in the judgment of the governing body, such crossing or covering will not impair the usefulness of the flood control channel or storm drain and will not be otherwise adverse to the best interests of the district; provided, however, that as to any such requested covering or crossing facilities the costs of design and construction are to be fully borne by the requesting party or parties.

The governing body of the district may expend funds of the district for the construction of facilities for the covering or crossing over of any portion of existing flood control channels or storm drains of the district whenever it determines such expenditures to be in the best interests of the district. The district may also expend for such purpose any funds provided it by any local agency within the district for the construction of facilities for the covering or crossing over of any portion of existing flood control channels or storm drains of the district.

20997. The governing body of the district shall have full authority to cause to be inserted in specifications and contracts for any flood control work financed or paid for in whole or in part out of moneys obtained from the United States of America or any department or

agency thereof as a loan, grant, or appropriation, the provisions or terms as may be prescribed by the United States of America or such department or agency as a condition upon which the federal funds are loaned, granted, or appropriated.

Article 68. Drainage Districts

21000. The provisions of this article shall apply to contracts by drainage districts as provided for in Chapter 354 of the Statutes of 1919.

21001. By resolution or resolutions the board of supervisors may order the work to be done, and if it does so it shall fix a time for receiving proposals or bids for doing the work, and shall direct the clerk to give notice, inviting sealed proposals or bids. Such notice shall include a statement that the work is to be done under the provisions of the Drainage District Improvement Act of 1919 and according to the plans and specifications on file, except insofar as such plans and specifications were changed by the board of supervisors in conclusion of the hearing on the resolution of intention in said act provided; to which said act, to the resolution of intention and all proceedings had thereunder the attention of bidders is hereby directed, and which are by this reference made part of said notice.

21002. The notice inviting sealed proposals or bids shall be published by at least two insertions in the newspaper or newspapers designated in the resolution of intention, and (though it need not be simultaneously) a copy or copies of the same shall be posted and kept posted for five days, at or near the chamber door of the board of supervisors. All proposals or bids shall be accompanied by a check, payable to the county, certified by a responsible bank in an amount not less than 10 percent of the aggregate of the proposal or bid, or by a bond in such amount running to the county, signed by the bidder, with two sureties qualifying before an officer competent to administer oaths, each in said amount over and above all statutory exemptions, or executed by some bonding company acceptable to said board of supervisors. Said proposals or bids shall be delivered to the clerk of said board.

21003. The board shall, in open session, open and examine and declare the same. No proposal or bid shall be considered unless accompanied by such check or such bond in terms satisfactory to the board. The board may reject any and all proposals or bids should it deem it for the public good, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work to the lowest responsible bidder at the price named in his or her bid.

A notice of such award, attested by the clerk of the board of supervisors shall be transmitted to the successful bidder by mail by the clerk of the board of supervisors, and shall also be published and posted in a manner herein provided as to the notice inviting

proposals or bids.

The check or bond accompanying such accepted proposal or bid shall be kept by the clerk of said board until the contract for doing said work, as hereinafter provided, has been entered into. Checks or bonds of unsuccessful bidders shall be returned by the clerk of said board. If said successful bidder fails, neglects or refuses for 15 days after being awarded the contract to execute the same, the certified check accompanying his bid, and the amount thereof shall be declared forfeited to the county, and may be collected by it and paid into the interest and sinking fund of the district, and any bond forfeited may be prosecuted, and the amount thereof collected and paid into said fund.

Before being entitled to a contract the bidder to whom the award thereof has been made must advance and pay to the clerk of the board of supervisors, the costs and expenses of publishing and posting the resolutions, notices and orders required under this act to be made, which have been made, given, posted, or published in the proceeding.

21004. Any person interested in the said proceeding may at any time within 10 days from the first publication of the notice of award file with the clerk of the board of supervisors a statement in writing specifying any particulars in which he or she may be aggrieved by the said proposed work and any and all objections he or she may have to the regularity or legality of the proceedings theretofore had or taken. The failure to file such written statement shall constitute and be a complete waiving of each and every objection to the proceedings theretofore had or taken and an estoppel and bar to any and all claims that the same or any portion thereof have been or are irregular, illegal, defective, erroneous, or faulty; provided, that the resolution of intention provided for in Section 6 of Chapter 354 of the Statutes of 1919 has been adopted and published.

21005. If for 20 days after the first publication of the notice of award, the awardee fails, neglects, or refuses to execute a contract for the same, the board of supervisors may direct the clerk of the board to give notice as in the first instance, inviting sealed proposals or bids, and thereupon after receiving bids shall award the contract as in the first instance; and the said board shall proceed in the same manner in the case of the default of a second or subsequent awardee.

21006. The chairman of the board of supervisors is hereby authorized, in the name of the county to execute the contract with the awardee thereof, and to receive and approve all bonds required by this act on the part of the awardee, and shall, by the terms of said contract, fix the time for the beginning of the work, which shall not be more than 20 days from the date thereof. The contract shall provide that the work shall be prosecuted with diligence until completed, and shall fix a time for such completion. Such time of completion may be extended from time to time by the board of supervisors, in its discretion, and by resolution, entered by the clerk in the minutes of said board, a copy of which shall by said clerk be

endorsed upon or annexed to the contract.

21007. Before the execution of such contract, a bond shall be executed and filed, running to the county, in an amount not less than one-half of the contract price of the work, signed by the contractor and two or more sureties, who, unless surety companies, shall qualify before an officer entitled to administer the oath, in a sum aggregately equal to the amount of the bond, each surety in the amount for which he or she becomes surety. Such bond shall be conditioned for the faithful execution of the contract by the contractor, and for the payment by him or her for all labor and materials furnished for or in the doing of the work. The form and sufficiency of said bond shall be passed upon by some member of the board of supervisors, and such bond shall inure as well to the benefit of any and all persons furnishing labor or materials for the work as to that of the county.

21008. By said contract the county shall undertake that the board of supervisors will, upon the fulfillment and performance of the contract on the part of the contractor, and under the provisions of the Drainage District Improvement Act of 1919 take all steps, in or by said act authorized to be taken, to effect the issuing by the county treasurer of the bonds in said act authorized to be issued, and provide a fund for their payment, as in or by said act prescribed. The contract shall state that in no case shall the county be liable thereunder, nor any officer thereof be beholden thereunder except for the discharge of official duty under the law.

21009. If the contractor shall fail to begin in good faith the work provided for in said contract within the time in said contract set forth, or shall fail thereafter to prosecute said work in a workmanlike and diligent manner, or shall fail in any other respect to carry out the terms of said contract, then the board of supervisors shall cause written notice to be served upon said contractor, specifying the particular areas in which he or she is not fulfilling the requirements of said contract, and if for a period of three days thereafter said contractor shall fail to remedy the defects set forth in said notice, and to prosecute said work thereafter with diligence and in a workmanlike manner, then the board of supervisors shall either take over said contract and complete said work, or shall relet said contract, without the necessity of advertising for bids, and cause the work to be completed, and shall declare the bond given by said contractor forfeited and order suit brought thereon, and all moneys collected therefrom shall be paid into the interest and sinking fund of the district.

21010. If the contractor fails to pay for any labor or material furnished for or in the doing of said work by any person, such person may within 90 days after the making of the final order hereinafter referred to, file with the county treasurer a verified statement of such facts, and such person may thereafter, within six months after the filing of such statement, bring an action on said bond in his or her own name, or if the person has assigned his or her claim, the action may be brought in the name of the assignee; provided, however, that

the right of the county to recover on said bond shall be superior to the rights of any such person to recover thereon; provided, moreover, that if such statement shall be filed before the expiration of 20 days from the making of such final order, then the county treasurer shall be authorized to withhold from the contractor sufficient of the bonds, issued as herein provided, to satisfy said claim, and costs, which can reasonably be anticipated.

21011. (a) As soon as in good faith may be done, there shall be filed with the clerk of the board of supervisors a declaration that the work has been completed according to the contract, together with an itemized statement of all the incidental costs and expenses of the work and the cost of the proceedings inclusive of the estimated cost of publishing the notice of final hearing hereinafter provided. The aggregate amount of such items shall be stated, and also the amount due under the contract; and also the gross sum for a bond issue representing the entire amount thereof, as claimed by the contractor. The said declaration and statements shall be signed and verified by the engineer of construction and by the contractor or by some person cognizant of the facts signing on his or her behalf and stating why he or she, instead of the contractor, so signs and verifies. Either signer may except from his or her signature and verification any amount or item to which he or she does not assent. The chairman of the board of supervisors shall fix a time for a hearing, to be known as the final hearing, for the purpose of determining whether the work shall be accepted as completed according to the contract, and for determining the aggregate amount for which bonds shall be issued representing the total costs of the work and the incidental costs and expenses of the work and the proceedings, all of which have been charged to and are payable by the contractor. Notice of such hearing shall be given and may, in form, and shall, in substance be as follows (filling the blanks):

NOTICE OF FINAL HEARING.

In the matter of Drainage District Improvement No. _____.

Notice is hereby given that a final hearing in the above named matter will be had at the hour of _____m. on the _____ day of _____, 19__, at the chamber of the Board of Supervisors of the County of _____, State of California, for the purpose of determining whether the work done under the contract with ____

_____

under Resolution of Intention No. _____ in Drainage Improvement District No. _____ of the County of _____ shall be accepted as being performed according to the contract, and for determining the aggregate amount for which bonds shall issue representing the cost of such work, including the incidental costs and expenses of the work and the proceedings, of which a statement has been filed with the Clerk of said Board of Supervisors of the County of _____ to which statement the attention of all persons interested

is hereby directed.

_____ of the Board of Supervisors of the County of _____

Attest: _____

Clerk of said Board of Supervisors.

(b) Such notice shall be signed by the chairman of the board of supervisors and attested by the clerk of the board of supervisors and published by at least two insertions in the newspaper or newspapers designated in the resolution of intention, and a copy or copies thereof posted and kept posted for two days at or near the chamber door of the board of supervisors, the first day of such publication and that of such posting (they need not be simultaneous) to be not less than five days before the day in said notice specified for the hearing. Proof of such publication shall be made by affidavit or affidavits, and the same shall be filed. If a quorum is not present at the time specified in the notice of the hearing, the members of the board then present may continue the hearing; and at all stages the hearing may, by resolution entered in the minutes, be continued from time to time. At any time before the day in said notice specified for the hearing any property owner may file written objection to the acceptance of the work on the ground that the work has not been completed or done according to the contract, specifying in ordinary language the particulars in which the work has not been so completed or done. Any person interested in the proceeding, as of the interest of the contractor, shall be presumed to take issue with such objection and shall be heard accordingly. Questions as to the incidental costs or expenses of the work or the proceedings may be raised orally by any property owner within the district. Evidence may be adduced as to any of the matters to be determined, and in such order as the board may direct. If, when the matter has been fully heard, whether under, or in the absence of, objections, the board of supervisors is of the opinion that the work has not been completed or done according to the contract, it shall in writing specify what must be done in order to complete the work, and shall, by an order or resolution to be entered in its minutes, continue the further hearing of the whole matter to a specified day, expressly stating that such continuance is for the purpose of enabling the contractor to complete his or her contract. On said continued hearing, the objections to the work filed before the day of the first hearing shall continue in force, and evidence shall be received, if offered, as to what has been done by way of completing the contract in the particulars specified in the order of the board on the said continuance of the hearing. If, upon such continued hearing, the board is of the opinion that the work is still uncompleted in the particulars as to which it was ordered to be completed, it shall be discretional with said board to order or refuse a second continuance

of the hearing. If the board does order such second continuance, it shall be ordered in the same manner, with like effect as upon the first continuance, and likewise as to a second and any other or further continuance. Objections to any item of incidental costs and expenses shall pend and be heard on said day, or at any continued hearing had as above in this section provided. Every continuance of said hearing for the purpose of enabling the contractor to complete his or her contract or the work shall continue or revive such powers in the proceeding as the board of supervisors had under the provisions of this act, at the time of the filing of the contractor's declaration that the work was completed, as above provided, and also operate to extend the time for the completion of said contract in such manner that its completion within the time to which the hearing is continued, shall be as valid performance of such contract as if completed at the time of filing such declaration.

21012. Whenever upon the hearing in Section 21011 provided, whether original or continued, the board shall be of the opinion that the work has been completed and done according to the contract, said board shall by resolution to be entered upon its minutes so declare, and shall in said resolution declare that the work is accepted and the amount of the contract price for doing the work and the amount of the incidental costs and expenses of the work and proceedings and the aggregate amount for which bonds are to be issued and shall make final order that bonds be issued therefor as hereinafter provided. The decision and determination of said board at the hearing provided for in Section 21011 shall, as to all matters determined at said hearing and as to all errors, informalities, irregularities, or omissions which said board might have avoided or remedied during the progress of the proceedings, or which it can at that time remedy, be final and conclusive upon all persons entitled to be heard before said board on said matters, and no assessment or tax levied for the payment of the bonds, and the interest thereon, to be issued for said work and expenses, shall be held invalid by any court for any error, informality, omission, or other defect in the proceedings where the resolution of intention has been actually published as in this act provided, before the said board shall have ordered the work to be done.

21013. (a) Whenever any court of competent jurisdiction shall determine that any contract purporting to have been made, or any proceedings, steps or actions purporting to have been taken, or any bond or bonds issued under this act, is or are void, invalid or unenforceable, or shall for any cause enjoin the issuance of any bonds proposed to be issued under this act, or shall enjoin the performance of the work or improvement or the making of an assessment upon the lands within the district, or shall quiet title of any lot or parcel of land against the lien of any such bonds or assessments, said court shall also determine whether any work has been done or improvements have been made in good faith by any contractor under said invalid contract or proceeding or under any contract

pursuant to which bonds were issued, or are proposed to be issued, and if so what part, if any, of said work or improvement was of such kind as might have been ordered under the provisions of this act. If the court shall find that any work or improvement of such kind as might have been ordered under this act has been done or performed in good faith by any contractor under or in pursuance to a contract purporting to have been made under the provisions of this act, then the said court shall direct the board of supervisors, who conducted the proceeding, to take proceedings as in this section provided for the issuing of new bonds to cover the reasonable value of said work or improvement. The board of supervisors may also without any decree of court, upon written application of a contractor, who may have done or performed in good faith any work or improvement pursuant to a contract purporting to have been made under this act, or of the assignee of such contractor, after the work or improvement shall have been accepted, determine that the proceeding authorizing said work or improvement or the acceptance thereof are for any reason invalid, and direct that new proceedings be initiated as provided in this section for the issuance of bonds to cover the reasonable value of so much of said work or improvement as is of a kind which might have been ordered and performed under this act.

(b) It is hereby declared to be the true intent and meaning of this section to make the cost and expenses of all work or improvements made or to be made through an attempted compliance with the provisions of this act payable by the lands benefited or to be benefited by such work or improvement, by the issuance of new bonds to defray the expenses thereof, but that all payments of principal or interest on void or unenforceable assessments or bonds shall be credited to the property against which they were assessed or attempted to be assessed.

(c) Upon a decree of court or an order of the board of supervisors having been made as above provided, said board shall cause to be made by the county surveyor, or some other county officer or by some other competent person appointed by it for that purpose, a report for a proposed new bond issue. Said report shall set forth a description of the work or improvement done or performed by said contractor or his or her assignee pursuant to the contract referred to in said decree of court or order of the board, which work or improvement has been found by said court or said board to be of such kind as might have been ordered under this act, and shall state the reasonable value of said work or improvement (which shall not exceed the aggregate of the original contract price for said work or improvement, together with the incidental expenses of the original proceedings for said work or improvement, and if the work or improvement has been accepted it shall also include interest upon said total from the date of the original acceptance of said work or improvement by the board of supervisors at the same rate proposed for the new bond issue). Said report shall contain a description of the district benefited by said improvement. In the event that the original

proceedings contemplated an assessment upon lands within the district in accordance with the provisions of Section 12 of Chapter 354 of the Statutes of 1919 of this act then said report shall contain a proposed assessment of each separate parcel of land within the district benefited by said improvement, which assessment shall conform as nearly as may be with the report required by Section 12 of Chapter 354 of the Statutes of 1919 hereof, and shall be accompanied by a map or plat as therein provided.

(d) In the event any payments have been made on the principal or interest of any bonds previously issued, which have been declared invalid, by the payment of any special assessment taxes, by the owners of land within the assessment district, the amounts of such payments shall be ascertained and deducted from the amount for which new bonds are to be issued under this section and said report shall set forth the amount of the payments made and state that a credit or offset is to be made for said amount in the issuance of such new bonds.

(e) Upon the filing of said report the board of supervisors shall fix a day, hour, and place, for a hearing thereon, which time shall not be less than 20 days after the time of filing said report, and shall direct the clerk of the board to give notice of the filing of the report and of the hearing. The clerk shall thereupon cause notice of the time and place of such hearing to be given by publication in the newspaper designated in the resolution of intention by at least two insertions therein not more than eight days apart. When, before the day of hearing specified in said notice, 20 days, including Sundays and holidays, have elapsed since the first publication of said notice the board of supervisors shall have acquired power to proceed with such hearing. Said notice shall state the fact of the filing of said report and shall contain (a) a general description of the location and extent of the work or improvement sufficient to identify the same; (b) a description of the district benefited by said work or improvement as contained in said report; (c) either a statement that said report contains an assessment proposed to be levied on each separate parcel of land within said district to retire the bonds proposed to be issued and to pay the interest thereon for each year during which said assessment shall continue, or a description of the zones, if any, into which such district is to be divided, and a statement of the percentage to be raised from the land in each of such zones each year for the payment of the installments of principal and interest on the bonds proposed to be issued; (d) a statement of the reasonable value of the work or improvement together with the incidental expenses of the original proceedings and the amount of interest, if any, upon said total; (e) the amount of the payments of principal or interest made upon the bonds previously issued, if any, and the credit or offset to be deducted in the issuance of such new bonds; (f) the total amount of the proposed new bond issue and a description of the bonds proposed to be issued, which bonds shall be as nearly as possible the same as to maturity, rate of interest, and other

particulars as the bonds described in the original proceedings for said work or improvement, correcting any errors or irregularities, that may have existed in the bonds in said original proceedings.

(f) Said notice shall advise all persons interested that at the time fixed for the hearing of the report or at the time to which the hearing may be continued any person may appear and be heard upon any of the matters set forth in the report. The board of supervisors shall have power to confirm said report and to revise, correct, or modify the same in respect to any of the matters therein contained either as to the amount or character of the work or improvement done or the reasonable value thereof, the extent of the district to be benefited thereby, the amount of assessment levied upon any particular parcel of land within such district, the zones, if any, into which said district is divided, the percentages to be raised in each or any of said zones, the amount of deductions or offsets by reason of payments of principal or interest upon previously issued bonds, the amount of the bonds proposed to be issued, the maturity or rate of the interest thereon, or as to any other matter set forth in said report.

(g) At the conclusion of the hearing the board of supervisors shall adopt a resolution declaring its findings and determinations in the matter, which shall be final and conclusive upon all persons in all proceedings as to all matters so found and determined. If no changes are made in the matters set forth in said report it shall be sufficient in said resolution to declare that said report is confirmed and that bonds shall be issued as therein provided, but if any changes are made such changes shall be set forth and it may be declared that said report is confirmed as so modified by the changes set forth. The clerk of the board of supervisors shall transmit an attested copy of said resolution to the treasurer and upon receipt of the same the treasurer shall immediately proceed to issue the bonds as therein ordered, which said bonds shall be dated as of the date of the adoption of said resolution. Said bonds shall be issued and signed in all respects by the same officers and in the same manner and form as if issued pursuant to the provisions of Section 16 of Chapter 354 of the Statutes of 1919. Said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings prior thereto under this act and after the same are issued no assessment or tax levied or collected for the purpose of paying the principal or interest on said bonds shall be held illegal or set aside or refunded by reason of any error, informality, irregularity, omission, or defect in any of the proceedings prior to the issuance of said bonds, nor shall any action or proceedings be thereafter commenced or maintained to cancel or set aside said bonds or prevent the payment thereof or the levy, collection or enforcement of any assessment or taxes for such payment.

Article 69. Orange County Flood Control District

21020. The provisions of this article shall apply to contracts by the Orange County Flood Control District, as provided for in Chapter

723 of the Statutes of 1927.

21020.2. All contracts for any improvement or unit of work, except as hereinafter provided, estimated to cost in excess of ten thousand dollars ($10,000), shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of supervisors of the district shall advertise by five or more insertions in a daily newspaper of general circulation, or by two or more insertions in a weekly newspaper of general circulation, printed and published in the district, inviting sealed proposals for the construction or work of the proposed improvement or work and may let by contract separately, any part of the work or improvement. The board shall have the right to reject any and all bids not suitable to the best interests of the district. In the event all proposals are rejected, or no proposals are received pursuant to advertising therefor, or the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000) or the work consists of channel protection, maintenance work, or of emergency work when necessary in order to protect life and property from extensive damage, the board of supervisors may, without advertising for bids therefor, have the work done by force account. The district shall have power to purchase in the open market, without advertising for bids therefor, materials and supplies for use in any work being done by it either under contract or by force account whenever the estimated costs of the materials or supplies do not exceed the sum of five thousand dollars ($5,000); and provided further, that in case of emergency work when necessary in order to protect life and property from impending extensive damage, the district shall have power to purchase in the open market, without advertising for bids therefor, materials and supplies for use in any work, even though the cost thereof should exceed five thousand dollars ($5,000).

21020.5. Any improvement for which bonds are voted under the provisions of the act shall be made in conformity with the report, plans, specifications, and map theretofore adopted, as above specified, unless the doing of any of the work described in the report shall be prohibited by law, or be rendered contrary to the best interests of the district by some change of conditions in relation thereto, in which event the board of supervisors may, by a vote of four-fifths of all the members thereof, order necessary changes made in the proposed work or improvements, and may cause new plans and specifications to be made and adopted therefor.

21020.8. Any work or improvements provided for in the act may be located, constructed, and maintained in, along, or across any public road or highway in the County of Orange, in the manner as to afford security for life and property, but the board of supervisors of the district shall restore or cause to be restored any public road or highway to its former state as near as may be, be so as not to impair its usefulness.

21020.9. The plans and specifications for any work proposed to be done, or improvements to be made, under the act, in any

municipality in the district shall first be approved by the legislative body of the municipality before the commencement of the work or improvements, and before any contract shall be let therefor; provided, that in the event the legislative body shall refuse or neglect to approve the plans and specifications for the work or improvement within 30 days after being requested by the board of supervisors so to do, then the board of supervisors shall omit the doing of the work or making of the improvements within the municipality, and the omission shall not affect the validity of its proceedings under the act, and the funds which were to be expended for the proposed work or improvement in the municipality may be expended elsewhere by the board of supervisors for carrying out the purposes of the act.

21021. Every contract entered into by the district for construction or improvements shall be subject to the provisions of Chapter 303 of the Statutes of 1919, as amended; and the board of supervisors of the district shall require the contractor to file with it good and sufficient bonds conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith in accordance with the provisions of that act.

21022. The contract shall be entered into by the engineer, and the assessment and warrant, when confirmed, shall be recorded in the office of the engineer.

21023. The governing body of said district shall have full authority to cause to be inserted in specifications and contracts for any flood control work financed or paid for in whole or in part out of moneys obtained from the United States, or any department or agency thereof, as a loan, grant or appropriation, such provisions or terms as may be prescribed by the United States, or such department or agency, as a condition upon which such federal funds are loaned, granted, or appropriated.

21024. Emergency work, found by the board of supervisors to be necessary in order to protect life and property from immediately impending flood damage, may also be done by negotiated contract without advertising for bids therefor. The purchasing agent of Orange County, unless otherwise ordered by the board of supervisors, may purchase for the district all materials, supplies, equipment and other personal property necessary to carry out the purposes of this section and shall make all such purchases and contracts upon proper requisition therefor, signed by the chief engineer of the district, or in his or her absence by his or her designee.

Article 70. American River Flood Control District

21030. The provisions of this article shall apply to contracts by the American River Flood Control District, as provided for in Chapter 808 of the Statutes of 1927.

21031. In all work of improvement or repair of any of the works

or property of the district and in the furnishing of materials or supplies therefor, when the expenditures required for the same exceed the sum of one thousand five hundred dollars ($1,500), the same shall be done by contract, and shall be let to the lowest, responsible bidder, after notice by publication in a newspaper of general circulation published in the district for at least two insertions in a weekly or at least 10 insertions in a daily newspaper; such notices shall distinctly state the work contemplated or the materials or supplies required, or both; provided, the board of trustees may reject any and all bids presented and readvertise in their discretion; and provided, further, that said board may declare and determine that in its opinion the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and they may thereafter proceed to have the work done or the materials purchased without further observance of the foregoing provisions of this section; and provided, further, that in case of a great public calamity such as sudden fire, flood, storm, epidemic, or act of God, the board of trustees may declare a state of great public emergency and proceed to have all necessary work done and materials and supplies furnished without further observance of the foregoing provisions of this section; provided, further, that none of the foregoing provisions of this section shall apply to work done by contract with the United States, State of California, or any political subdivision, or public agency thereof. Any work or improvement provided for in this act may be located, constructed and maintained in, along or across any railroad, public road, or highway in the County of Sacramento, in such manner as to afford security for life and property but the said board of trustees shall restore or cause to be restored such road or highway to its former state as near as may be, so as not to impair its usefulness.

Article 71. Orange County Water District

21040. The provisions of this article shall apply to contracts by the Orange County Water District, as provided for in Chapter 770 of the Statutes of 1933.

21041. The district shall not be bound by any contract except as hereinafter provided unless the same shall be made in writing approved by resolution of the board of directors and properly executed by its officers who have been so authorized to do by the district. The approval of the form of all contracts shall be endorsed thereon by an attorney for the district.

21042. The district may prescribe methods for the construction of works and for the letting of contracts for any of the following purposes:

(a) The construction of works, structures, or equipment.

(b) The performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act.

(c) The acquisition or disposal of any real or personal property.

When work is not to be done by the district itself by force account, and the amount involved is ten thousand dollars ($10,000), or more, any contract for the doing of the works shall be made by the district with the lowest and best bidder after the publication pursuant to Section 6061 of the Government Code in a newspaper of general circulation published within the district, of a notice calling for bids and fixing a period during which bids will be received, which shall be not less than 10 days after the publication of the notice. The district may reject any and all of the bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, the district may determine and declare that in its opinion, based on estimates submitted by the engineer for the district, any work may be performed better or more economically by the district with its own employees, or after hiring additional employees; and after the adoption of a resolution to this effect by at least seven affirmative votes of the directors of the district, the district may proceed to have that work done in the manner stated and without further observance of the provisions of this section.

21043. Contracts may be let or work undertaken without advertising for bids if the work shall be deemed by the district to be of urgent necessity for the preservation of life, health or property and shall be authorized by a resolution passed by at least eight affirmative votes of the board of directors and containing a declaration of the facts constituting the urgency.

21044. Contracts, in writing or otherwise, for the acquisition or disposal of any real property, for the acquisition or leasing of personal property, the purchase of water to replenish the groundwater supplies of the district, the repair of district equipment or structures, and for legal, engineering, and other professional services may be let without calling for competitive bids.

21045. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to the district for its use, for at least 25 percent of the amount of the estimated contract price, conditioned for the faithful performance of the contract. The work shall be done under the direction and to the satisfaction of the engineer of the district, and be subject to approval by the board of directors of the district.

Article 72. Municipal Water Districts

21050. The provisions of this article shall apply to contracts by municipal water districts, as provided for in Chapter 78 of the Statutes of 1935.

21051. All contracts for the construction or extension of any waterworks, water system or water distribution system, or for furnishing labor, materials or supplies therefor as herein provided, shall be let to the lowest responsible bidder. The legislative body of

such city shall advertise for two or more days in a newspaper of general circulation printed and published in such city, inviting sealed proposals for furnishing labor, materials and supplies for the proposed waterworks, water system or water distribution system before any contract shall be made therefor. The said legislative body shall have the right to require such bonds as it may deem best from the successful bidder to insure the faithful performance of the contract, and shall also have the right to reject any and all bids; provided, however, that nothing herein contained shall be construed as prohibiting the municipality itself from constructing or extending such waterworks, water system, or water distribution system and employing the labor necessary therefor, without a contractor; and provided further, that in municipalities operating under a charter heretofore or hereafter framed under the provisions of the Constitution of the State of California, all acts required to be performed subsequent to the sale of such bonds by this act, shall be done and performed by the proper body, board, officer, or commission of such municipality, as is required or authorized by such charter to perform such acts, and in case such charter also prescribes the manner of letting and entering into contracts for the furnishing of labor, materials, or supplies for the constructing or extending of such waterworks, water system, or water distribution system, the contracts therefor shall be let and entered into in conformity with such charter.

Article 73. San Bernardino County Flood Control District

21060. The provisions of this article shall apply to contracts by the San Bernardino County Flood Control District, as provided for in Chapter 73 of the Statutes of 1939.

21061. All contracts for any improvement or unit of work, except as hereinafter provided, estimated to cost in excess of twenty-five thousand dollars ($25,000), shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of supervisors of the district shall advertise by five or more insertions in a daily newspaper of general circulation, or by two or more insertions in a weekly newspaper of general circulation, printed and published in the district, inviting sealed proposals for the construction of the improvement or work. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds, to be approved by the board, conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids not suitable to the best interests of the district. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the work

consists of channel protection, dam protection, temporary work, maintenance work, or of emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by force account. Emergency work, found by the board of supervisors to be necessary in order to protect life and property from impending flood damage, may also be done by negotiated contract without advertising for bids or requiring bonds therefor.

Article 74. Ventura County Flood Control District

21070. The provisions of this article shall apply to contracts by the Ventura County Flood Control District, as provided for in Chapter 44 of the Statutes of the 1944 Fourth Extra Session.

21071. (a) All contracts for any improvement or unit of work except as hereinafter provided estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The said board of supervisors of said district shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction of, the improvement or work before any contract shall be made therefor, and may let by contract separately any part of said work or improvement. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account or negotiated contract.

(b) The district shall have the power to purchase in the open market without advertising for bids therefor, materials, supplies, equipment, and other personal property for use in any work therewith either under contract or by force account where the costs thereof do not exceed ten thousand dollars ($10,000). It shall be the duty of the purchasing agent of Ventura County, as the ex officio purchasing agent of the Ventura County Flood Control District, unless otherwise ordered by the board of supervisors, to purchase for the district all materials, supplies, equipment, and other personal

property necessary to carry out the purposes of this act, and to engage independent contractors to perform sundry services for the district, where the aggregate cost of such work, exclusive of materials to be furnished by the district, does not exceed ten thousand dollars ($10,000).

(c) The purchasing agent shall make all such purchases and contracts upon proper requisition therefor, signed by the engineer-manager of the district, or his or her authorized representative.

(d) If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing in connection therewith, and if the cost of labor and materials for such work according to the engineer's estimate will exceed five thousand dollars ($5,000), and if the work is not of the type of work referred to in this section, such maintenance and alteration work shall be performed under a contract or contracts which shall be let to the lowest responsible bidder or bidders in the manner described in this section.

21072. Emergency work, found by the board of supervisors, by unanimous vote of those present, not less than a quorum being present, to be necessary in order to protect life and property from immediately impending flood damage, may also be done by negotiated contract without advertising for bids therefor. The purchasing agent of Ventura County, unless otherwise ordered by the board of supervisors, may purchase for the district all materials, supplies, equipment, and other personal property necessary to carry out the purposes of this section and shall make all such purchases and contracts upon proper requisition therefor, signed by the engineer-manager of the district, or in his or her absence by his or her designee.

Article 75. Humboldt County Flood Control District

21080. The provisions of this article shall apply to contracts by the Humboldt County Flood Control District, as provided for in Chapter 939 of the Statutes of 1945.

21081. All contracts for any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders therefor in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall

state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

Article 76. Riverside County Flood Control and Water Conservation District

21090. The provisions of this article shall apply to contracts by the Riverside County Flood Control and Water Conservation District, as provided for in Chapter 1122 of the Statutes of 1945.

21091. All contracts for any improvement or unit of work, except as otherwise provided in this act, estimated to cost in excess of fifteen thousand dollars ($15,000) shall be let to the lowest responsible bidder in the manner provided in this act. The board of supervisors of the district shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in the district inviting sealed proposals for the construction of the improvement or work before any contract shall be made therefor, and may let by contract separately any part of the work or improvement. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith. The bonds shall contain the terms and conditions set forth in Sections 10223 and 10224 of the Public Contract Code and Section 3248 of the Civil Code and be subject to those sections. The board shall also have the right to reject any and all bids. If all proposals are rejected or no proposals

are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of fifteen thousand dollars ($15,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by force account. The district shall have the power to purchase in the open market, without advertising for bids therefor, materials and supplies for use in any improvement or unit of work either under contract or by force account.

Article 77. San Luis Obispo County Flood Control and Water Conservation District

21100. The provisions of this article shall apply to contracts by the San Luis Obispo County Flood Control and Water Conservation District, as provided for in Chapter 1294 of the Statutes of 1945.

21101. All contracts for any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract shall be made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board

of supervisors may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

21102. The board shall have full authority to cause to be inserted in specifications and contracts for any flood control or other work financed or paid for in whole or in part out of moneys obtained from the United States, or any department or agency thereof, as a loan, grant, or appropriation, such provisions or terms as may be prescribed by the United States, or such department or agency, as a condition upon which such federal funds are loaned, granted, or appropriated.

Article 78. Santa Barbara County Water Agency

21110. The provisions of this article shall apply to contracts by the Santa Barbara County Water Agency, as provided for in Chapter 1501 of the Statutes of 1945.

21111. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of directors of the agency shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the agency inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The faithful performance bond shall contain such terms and conditions as the board may specify, and the payment bond shall be subject to the provisions of, and shall contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, insofar as they may be applicable. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000) or the work consists of emergency work necessary in order to protect life and property, the board of directors by unanimous vote of all members present may without advertising for bids therefor have said work done by force account. The agency shall have the power to purchase in the open market, and may authorize the Purchasing Agent of the County of Santa Barbara to purchase, without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

If the work to be performed by or on behalf of the agency does not involve an expenditure of ten thousand dollars ($10,000) or more, or if the work consists of emergency work when necessary in order to protect life and property, the agency may, but need not, require a faithful performance bond. The agency may, but need not, require a payment bond on work performed on behalf of the agency which does not involve an expenditure of more than ten thousand dollars ($10,000).

21112. The provisions of this article shall have no application to a contract entered into with the United States under the authority of Section 6 of Chapter 1501 of the Statutes of 1945, or to a contract authorized by a vote of the electorate of the agency.

Article 79. Monterey County Flood Control and Water Conservation District

21120. The provisions of this article shall apply to contracts by the Monterey County Flood Control and Water Conservation District, as provided for in Chapter 699 of the Statutes of 1947.

21121. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or

maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

Article 80. Sonoma County Flood Control and Water Conservation District

21130. The provisions of this article shall apply to contracts by the Sonoma County Flood Control and Water Conservation District, as provided for in Chapter 994 of the Statutes of 1949.

21131. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand five hundred dollars ($2,500) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three placements in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work authorized and required under circumstances referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

The provisions of this section shall have no application to a contract entered into with the United States or the State of California or other governmental agency under the authority of Section 3 of Chapter

2126 of the Statutes of 1959, or to a contract authorized by a vote of the electorate of the district.

Nothing contained in this section shall be deemed to preclude the district from, and the district is hereby authorized to, rent or otherwise contract for equipment with or without an operator and use the same upon works of the district; provided, such contract is approved by the board.

Article 81. Mendocino County Flood Control and Water Conservation District

21140. The provisions of this article shall apply to contracts by the Mendocino County Flood Control and Water Conservation District, as provided for in Chapter 995 of the Statutes of 1949.

21141. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand dollars ($2,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, where the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids thereof, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 3, or to a contract authorized by a vote of the electorate of the

district.

Article 82. Alameda County Flood Control and Water Conservation District

21150. The provisions of this article shall apply to contracts by the Alameda County Flood Control and Water Conservation District, as provided for in Chapter 1275 of the Statutes of 1949.

21151. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer will exceed twenty-five thousand dollars ($25,000), with or without the furnishing of materials or supplies, shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. Construction of such improvements or works shall not be staged to avoid the bidding process. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. The board shall invite such bids by publishing a notice of the call for bids pursuant to Section 6062 or 6066 of the Government Code in a newspaper of general circulation in the county. The call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event the engineer's estimate is twenty-five thousand dollars ($25,000) or less, or in the event no proposals are received pursuant to advertisement therefor, or in the event the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by day labor under the direction of the board, by contract, or by a combination of the two. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose.

21152. If any change or addition in the work being performed

under a construction contract pursuant to this section is deemed necessary, the board may authorize the contractor to proceed with the change or addition without the formality of obtaining bids therefor, provided that the extra cost to the district shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract which exceeds fifty thousand dollars ($50,000). The board may, by board order, authorize the Director of Public Works or other district officer to order such changes or additions in the work being performed, provided that the above conditions are satisfied and that the cost of the change or addition does not exceed twenty-five thousand dollars ($25,000). The authorization to the Director of Public Works or other district officer shall include the authority to grant any contract time extensions necessary in connection with the changes or additions. All changes or additions to the work shall be ordered in writing. If a change or addition in a contract awarded under the provisions of this section is requested by any person, firm, corporation, or public agency, other than the district, which person, firm, corporation, or public agency agrees to pay all of the cost of the change or addition, the board may, by board order, authorize the Director of Public Works or other district officer to direct the contractor to proceed with the change or addition without the formality of obtaining bids therefor, provided that the cost of the change or addition does not exceed 15 percent of the original contract price.

Article 83. Santa Clara Valley Water District

21160. The provisions of this article shall apply to contracts by the Santa Clara Valley Water District, as provided for in Chapter 1405 of the Statutes of 1951.

21161. Any improvement or unit of work not performed by district personnel and estimated by the engineer to cost in excess of five thousand dollars ($5,000) shall be done by contract. All such contracts shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by

separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand ($5,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

The provisions of this section requiring competitive bidding and the award of contracts to the lowest responsible bidder shall be inapplicable to the extent the improvement or unit of work is to be performed on its own facilities by a public utility subject to the jurisdiction of the California Public Utilities Commission.

Article 84. Napa County Flood Control and Water Conservation District

21170. The provisions of this article shall apply to contracts by the Napa County Flood Control and Water Conservation District, as provided for in Chapter 1449 of the Statutes of 1951.

21171. All contracts for any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed two thousand dollars ($2,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call,

according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvements, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 85. Lake County Flood Control and Water Conservation District

21180. The provisions of this article shall apply to contracts by the Lake County Flood Control and Water Conservation District, as provided for in Chapter 1544 of the Statutes of 1951.

21181. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer, will exceed four thousand dollars ($4,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call in said district pursuant to Section 6066 of the Government Code inviting sealed proposals for the construction or performance of the improvement or before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to

file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Title 1, Division 5, Chapter 3 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of four thousand dollars ($4,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor have said work done by day labor, under the direction of the board, by contract, or by the combination of the two. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 86. Contra Costa County Flood Control and Water Conservation District

21190. The provisions of this article shall apply to contracts by the Contra Costa County Flood Control and Water Conservation District, as provided for in Chapter 1617 of the Statutes of 1951.

21191. All contracts for any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interest of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require

the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have said work done by day labor, under the direction of the board, by contract, or by a combination of the two. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 86.5. Solano County Flood Control and Water Conservation District

21195. The provisions of this article shall apply to contracts by the Solano County Flood Control and Water Conservation District, as provided for in Chapter 1656 of the Statutes of 1951.

21196. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand five hundred dollars ($2,500) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of directors of the district shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith, the bonds to contain the terms and conditions set forth in Chapter 5 (commencing with Section 5100) of Division 2 of the Public Contracts Code and to be subject to the provisions of this chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no

proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of two thousand five hundred dollars ($2,500) or the work consists of emergency work necessary in order to protect life and property, the board of directors by unanimous vote of all members present may without advertising for bids therefor have the work done by force account. The district shall have the power to purchase in the open market without advertisement for bids thereof, materials and supplies for use in any work therewith either under contract or by force account.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of the Solano County Flood Control and Water Conservation District Act, or to a contract authorized by a vote of the electorate of the district.

Article 87. Yolo County Flood Control and Water Conservation District

21200. The provisions of this article shall apply to contracts by the Yolo County Flood Control and Water Conservation District, as provided for in Chapter 1657 of the Statutes of 1951.

21201. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder in the manner as provided.

21202. The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The board may reject any and all bids.

21203. If all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of five thousand dollars ($5,000) or where the work consists of channel protection, or maintenance work, or emergency work necessary in order to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids therefor, have the work done by force account. The district may purchase in the open market, without advertising for bids therefor, materials and supplies for use in any work either under contract or by force account.

21204. The provisions of this section have no application to a contract entered into with the United States under the authority of Section 3 of this act, or to a contract authorized by a vote of the

electorate of the district or zone.

Article 88. Sacramento County Water Agency

21210. The provisions of this article shall apply to contracts by the Sacramento County Water Agency, as provided for in Chapter 10 of the Statutes of the 1952 First Extraordinary Session.

21211. The agency shall have the power to make contracts, employ labor and to do all acts necessary for the full exercise of its purposes and powers. The board of directors of the agency may cause construction or other work to be performed or carried out by contracts or by the agency under its own superintendents as hereinafter provided.

21212. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of three thousand dollars ($3,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of directors of the agency shall advertise pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the agency inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of three thousand dollars ($3,000) or the work consists of emergency work necessary in order to protect life and property, the board of directors by unanimous vote of all members present may without advertising for bids therefor have said work done by force account. The agency shall have the power to purchase in the open market without advertisement for bids thereof, materials and supplies for use in any work therewith either under contract or by force account.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 6 of Chapter 10 of the Statutes of the 1952 First Extraordinary Session, or to a contract authorized by a vote of the electorate of the agency.

Article 89. Vallejo Sanitation and Flood Control District

21220. The provisions of this article shall apply to contracts by the Vallejo Sanitation and Flood Control District, as provided for in

Chapter 17 of the Statutes of the 1952 First Extraordinary Session.

21221. In all work of improvement or repair of any of the works or property of the district and in the furnishing of materials or supplies therefor, when the expenditures required for the same exceeds the sum of four thousand dollars ($4,000), the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in the district pursuant to Section 6066 of the Government Code and by posting such notice for at least five days at or near the door of the meeting place of the board of trustees prior to the date set for opening bids; such notices shall distinctly state the work contemplated and/or the materials or supplies required; provided, the board of trustees may reject any and all bids presented and readvertise and post in their discretion; and provided further, that said board may declare and determine that in its opinion the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and they may thereafter proceed to have the work done or the materials purchased without further observance of the foregoing provisions of this section; and provided further, that in case of a great public calamity, such as sudden fire, flood, storm, epidemic, or act of God, the board of trustees may declare a state of great public emergency and proceed to have all necessary work done and materials and supplies furnished without further observance of the foregoing provisions of this section. Any work or improvement provided for in this act may be located, constructed, and maintained in, along, or across any public road or highway in the County of Solano, in such manner as to afford security for life and property, but the said board of trustees shall restore or cause to be restored such road or highway to its former state as near as may be, so as not to impair its usefulness.

Article 90. Marin County Flood Control and Water Conservation District

21230. The provisions of this article shall apply to contracts by the Marin County Flood Control and Water Conservation District, as provided for in Chapter 666 of the Statutes of 1953.

21231. Any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be done by contract let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call pursuant to Section 6066 of the Government Code in said district inviting sealed proposals for the construction or performance of the improvement or before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for

the whole thereof or shall be divided into separate convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or maintenance, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have said work done by day labor, under the direction of the board, by contract, or by a combination of the two. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 91. Contra Costa County Storm Drainage District

21240. The provisions of this article shall apply to contracts by the Contra Costa County Storm Drainage District, as provided for in Chapter 1532 of the Statutes of 1953.

21241. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer will exceed two thousand dollars ($2,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the zone. The board shall make call for bids and advertise such call pursuant to Section 6066 of the Government Code in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such

work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Title 1 of Division 5 of Chapter 3 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000), or the work consists of emergency work necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have said work done by day labor, under the direction of the board, by contract, or by a combination of the two. The board shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 92. San Benito County Water Conservation and Flood Control District

21250. The provisions of this article shall apply to contracts by the San Benito County Water Conservation and Flood Control District, as provided for in Chapter 1598 of the Statutes of 1953.

21251. All contracts for any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call pursuant to Section 6063 of the Government Code in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate

contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

Article 93. Del Norte County Flood Control District

21260. The provisions of this article shall apply to contracts by the Del Norte County Flood Control District, as provided for in Chapter 166 of the Statutes of 1955.

21261. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer, will exceed two thousand dollars ($2,000), shall be let to the lowest responsible bidder or bidders therefor in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call pursuant to Section 6066 of the Government Code in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter.

The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

Article 94. Santa Barbara County Flood Control and Water Conservation Districts

21270. The provisions of this article shall apply to contracts by the Santa Barbara County Flood Control and Water Conservation Districts, as provided for in Chapter 1057 of the Statutes of 1955.

21271. All improvement and units of work to be performed by or for the district shall be performed in accordance with the following procedures and requirements:

(a) If the work consists of the protection or maintenance of channels, storm drains, dams, or other flood control works, or emergency work necessary in order to protect life or property from impending flood damage, the board of directors may, without advertising for bids therefor, have such work done by day labor, under the direction of the board, by contract, or by a combination of the two.

(b) If the work consists of the construction of new flood control channels, storm drains, dams, or other unit or units of work, and if the cost of such work, according to the estimate of the engineer, will exceed ten thousand dollars ($10,000), and if such work is not the type of work referred to in subdivision (a) or (c) of this section, such new construction shall be performed under a contract or contracts which shall be let to the lowest responsible bidder or bidders in the manner provided in subdivision (d) of this section.

(c) If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing work in connection therewith, and if the cost of labor and materials for such work according to the engineer's estimate, will exceed three thousand five hundred dollars ($3,500), and if the work is not the type of work referred to in subdivision (a) or (b) of this section, such maintenance and alteration work shall be performed under a contract or contracts which shall be let to the lowest responsible bidder or bidders in the manner provided in subdivision (d) of this section.

(d) The board shall first determine whether such work shall be let as a single unit for the whole of the work, or shall be divided into severable, convenient parts, or both, according to the best interest

of the district. The board shall call for bids and advertise such call pursuant to Section 6066 of the Government Code in the district inviting sealed proposals for the construction or performance of the work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable, convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interest of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bond to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The faithful performance bond shall contain such terms and conditions as the board may specify, and the payment bond shall contain the terms and conditions set forth in, and shall be subject to, the provisions of, Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, insofar as they may be applicable. If the work to be performed on behalf of the district does not involve an expenditure of fifteen thousand dollars ($15,000) or more, or if the work consists of work referred to in subdivision (a) of this section, the district may, but need not, require a faithful performance bond or a payment bond. The board shall also have the right to reject any and all bids.

(e) If no proposals are received pursuant to advertisement therefor, or if the estimated cost of work of the type referred to in subdivision (b) of this section does not exceed the sum of ten thousand dollars ($10,000), or if the estimated cost of work of the type referred to in subdivision (c) of this section does not exceed the sum of three thousand five hundred dollars ($3,500), the board of directors may, without advertising for bids therefor, have such work done by day labor, under the direction of the board, by contract, or by combination of the two. If any change or alteration in a contract awarded under the provisions of this section for work of the type referred to in subdivision (b) or (c) is deemed necessary and the cost thereof does not exceed 10 percent of the original contract price, the board may authorize the contractor to proceed with the change or alteration without the formality of obtaining bids therefor.

(f) Notwithstanding the foregoing provisions, the district shall have the power to acquire in the open market, and may authorize the Purchasing Agents of the County of Santa Barabara to acquire in the open market, without advertising for bids therefor, materials, equipment and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (a) of this section, may not be purchased without advertising for bids and awarding the contract therefor to the lowest responsible bidder if the cost thereof exceeds two thousand five hundred dollars ($2,500), unless such purchase is made by the county

purchasing agent at the request of the district, in which case the cost thereof shall not exceed six thousand five hundred dollars ($6,500).

Article 95. Santa Cruz County Flood Control and Water Conservation District

21280. The provisions of this article shall apply to contracts by the Santa Cruz County Flood Control and Water Conservation District, as provided for in Chapter 1489 of the Statutes of 1955.

21281. All contracts for the construction of any unit of work, except as provided in Sections 21292 and 21298, estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder in the manner hereinafter provided.

21282. Materials and supplies for use in any new construction work or improvement, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

21283. The board shall adopt plans, specifications, strain sheets, and working details for the work.

21284. The board shall cause an advertisement for bids for the performance of the work on the purchase of materials to be published in the county pursuant to Section 6061 of the Government Code, at least 10 days before the day set for opening bids.

21285. All bidders shall be afforded opportunity to examine the plans, specifications, strain sheets and working details.

21286. All proposals or bids offered shall be accompanied by a cashier's or certified check payable to the district, for an amount which shall not be less than 10 percent of the aggregate of the proposal, or by a bond for that amount and so payable, signed by the bidder and two sureties, who shall justify, in double that amount, before any officer competent to administer an oath, and over and above all statutory exemptions, or by a corporate surety bond, to the satisfaction and approval of the district.

21287. The board shall award the contract to the lowest responsible bidder, and the person to whom the contract is awarded shall perform the work in accordance with the plans, specifications, strain sheets, and working details, unless the contract is modified by a four-fifths vote of the board.

21288. The person to whom the contract is awarded shall execute a bond to be approved by the board for the faithful performance of the contract.

21289. If the board is advised by its engineer, or by the county surveyor or engineer, that any facility can be constructed or repaired for a sum less than the lowest responsible bid, it may reject all bids and order the work done by day's work under the supervision and direction of the county surveyor or engineer or its engineer as determined by the board.

21290. By the unanimous consent of the whole board in cases of great emergency, it may proceed at once to replace or repair any and

all structures without adopting the plans, specifications, strain sheets, or working details or giving notice for bids to let contract. The work may be done by day labor under the direction of the board, by contract, or by a combination of the two. If the work is done wholly or in part by contract, the contractor shall be paid the actual cost of material and labor expended by him in doing the work, plus not more than 15 percent to cover all profits, supervisions, use of machinery and tools, and other expenses. No more than the lowest current market prices shall be paid for materials.

21291. The plans and specifications adopted by the board for the erection, alteration, construction, or repair of any public building or other public structure shall not be altered or changed in any manner which increases its cost, except by a vote of two-thirds of the members of the board.

21292. Whenever the board enters into a contract for the erection, construction, alteration, or repair of any public building or other structure, the contract shall not be altered or changed in any manner, except by order adopted by a vote of two-thirds of the board, and the consent of the contractor.

21293. If any change or alteration of the contract is ordered, it shall be specified in writing and the cost agreed upon between the board and the contractor. If the cost so agreed upon:

(a) Does not exceed the amount specified in Section 113, or

(b) Does not exceed 10 percent of the original contract price,

the board may authorize the contractor to proceed with the change or alteration without the formality of obtaining bids therefor.

No change or alteration shall be authorized the amount of which is within the limitation specified in subdivision (b) and in excess of the limitation specified in subdivision (a) except by four-fifths vote of the board.

21294. If the cost of the works is reduced by reason of any modification of the contract an adjustment shall be made with the district therefor.

21295. Personal property may be purchased in the manner provided therefor for the county.

21296. The provisions of this article do not apply to work to be performed by others pursuant to Section 21297.

21297. (a) It may make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency, or mandatory of the State of California or of the United States and any department, board, bureau, or commission of the State of California or the United States, or any person, firm, association, or corporation, jointly or severally, for the acquisition of property or rights or the construction, maintenance, and operation in whole or in part of any or all works and improvements provided for in this act.

(b) It may lease or rent to or from any of the parties named in subdivision (a) any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement

or the maintenance thereof herein provided and under such terms and conditions as may be agreed upon between the parties.

(c) It may receive and accept any and all contributions in labor, material, or money from any of the parties named in subdivision (a), to be applied to the work or improvement herein provided for.

(d) It may cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation, or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made.

Article 96. San Joaquin County Flood Control and Water Conservation District

21310. The provisions of this article shall apply to contracts by the San Joaquin County Flood Control and Water Conservation District, as provided for in Chapter 46 of the Statutes of 1956.

21311. All contracts for any improvement or unit of work when the cost thereof according to the estimate of the engineer will exceed two thousand dollars ($2,000), shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Title 1 of Division 5 of Chapter 3 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to

reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have said work done by day labor, under the direction of the board, by contract, or by a combination of the two. The district shall have the power to require in their open market without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 97. Placer County Water Agency

21320. The provisions of this article shall apply to contracts by the Placer County Water Agency, as provided for in Chapter 1234 of the Statutes of 1957.

21321. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper, of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. In the event that no proposals are received, or if only one

responsive proposal is received, the board may negotiate a contract for construction or performance of the work or improvement or substantially similar work or improvement; provided, that if only one responsive proposal is received such contract must be negotiated with the bidder. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account. Sections 4300 to 4305, inclusive, of the Government Code shall not apply to the agency's Middle Fork American River Project. The provisions of this section shall apply to all proposals or contracts whether or not received or entered into prior to the effective date of the amendment of this provision made at the 1963 Regular Session of the Legislature.

Article 98. Tehama County Flood Control and Water Conservation District

21330. The provisions of this article shall apply to contracts by the Tehama County Flood Control and Water Conservation District, as provided for in Chapter 1280 of the Statutes of 1957.

21331. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of three thousand five hundred dollars ($3,500) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, where the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the

preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 3 of Chapter 1280 of the Statutes of 1957, or to a contract authorized by a vote of the electorate of the district.

Article 99. Shasta County Water Agency

21340. The provisions of this article shall apply to contracts by the Shasta County Water Agency, as provided for in Chapter 1512 of the Statutes of 1957.

21341. (a) All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder. The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the agency inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000) or where the work consists of emergency work necessary in order to protect life and property, the board, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The agency shall have the power to purchase in the open market, without advertisement for bids thereof, materials and supplies for use in any work therewith either under contract or by force account.

(b) The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 59 of Chapter 1512 of the Statutes of 1957, or to a contract authorized by a vote of the electorate of the agency.

Article 100. Yuba County Water Agency

21350. The provisions of this article shall apply to contracts by the Yuba County Water Agency, as provided for in Chapter 788 of the Statutes of 1959.

21351. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The board may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account. In awarding any contract or authorizing any work, the board shall comply with the provisions of Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

Article 101. Mariposa County Water Agency

21360. The provisions of this article shall apply to contracts by the Mariposa County Water Agency, as provided for in Chapter 2036 of the Statutes of 1959.

21361. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may

be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may have the work done by force account without advertising for bids. The district may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

Article 102. Sutter County Water Agency

21370. The provisions of this article shall apply to contracts by the Sutter County Water Agency, as provided for in Chapter 2088 of the Statutes of 1959.

21371. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The district may purchase in the open market without advertising for bids, materials and supplies for use in any work, either

under contract or by force account.

Article 103. San Mateo County Flood Control District

21380. The provisions of this article shall apply to contracts by the San Mateo County Flood Control District, as provided for in Chapter 2108 of the Statutes of 1959.

21381. All contracts for any improvement or unit of work except as hereinafter provided estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The said board of supervisors of said district shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction of the improvement or work before any contract shall be made therefor, and may let by contract separately any part of said work or improvement. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertising for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

Article 104. Plumas County Flood Control and Water Conservation District

21390. The provisions of this article shall apply to contracts by the Plumas County Flood Control and Water Conservation District, as provided for in Chapter 2114 of the Statutes of 1959.

21391. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand dollars ($2,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three insertions in a daily newpaper of general circulation or two insertions in a weekly newspaper of general circulation published in

the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, where the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 3 of Chapter 2114 of the Statutes of 1959, or to a contract authorized by a vote of the electorate of the district.

Article 105. Siskiyou County Flood Control and Water Conservation District

21400. The provisons of this article shall apply to contracts by the Siskiyou County Flood Control and Water Conservation District, as provided for in Chapter 2121 of the Statutes of 1959.

21401. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand dollars ($2,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three insertions in a daily newpaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of all claims for

labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, where the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 3 of Chapter 2121 of the Statutes of 1959, or to a contract authorized by a vote of the electorate of the district.

Article 106. Nevada County Water Agency

21410. The provisions of this article shall apply to contracts by the Nevada County Water Agency, as provided for in Chapter 2122 of the Statutes of 1959.

21411. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000) shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into several convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In

the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property, the board may have the work done by force account without advertising for bids. In such event a majority vote of all board members shall be required. The board may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

Article 107. Sierra County Flood Control and Water Conservation District

21420. The provisions of this article shall apply to contracts by the Sierra County Flood Control and Water Conservation District, as provided for in Chapter 2123 of the Statutes of 1959.

21421. (a) All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand dollars ($2,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, where the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

(b) The provisions of this section shall have no application to a

contract entered into with the United States under the authority of Section 3 of Chapter 2123 of the Statutes of 1959, or to a contract authorized by a vote of the electorate of the district.

Article 108. Lassen-Modoc County Flood Control and Water Conservation District

21430. The provisions of this article shall apply to contracts by the Lassen-Modoc County Flood Control and Water Conservation District, as provided for in Chapter 2127 of the Statutes of 1959.

21431. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of two thousand dollars ($2,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, where the estimated cost of such work does not exceed the sum of two thousand dollars ($2,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors, by unanimous vote of all members present, may without advertising for bids therefor have said work done by force account. The district shall have the power to purchase in the open market without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 3 of Chapter 2127 of the Statutes of 1959, or to a contract authorized by a vote of the electorate of the district.

Article 109. Yuba-Bear River Basin Authority

21440. The provisions of this article shall apply to contracts by the Yuba-Bear River Basin Authority, as provided for in Chapter 2131 of the Statutes of 1959.

21441. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000) shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into several convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the authority, inviting sealed proposals for the construction or performance of the improvement work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property, the board may have the work done by force account without advertising for bids. The authority may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

Article 110. Amador County Water Agency

21450. The provisions of this article shall apply to contracts by the Amador County Water Agency, as provided for in Chapter 2137 of the Statutes of 1959.

21451. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed two thousand dollars ($2,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work

shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed two thousand dollars ($2,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

Article 111. El Dorado County Water Agency

21460. The provisions of this article shall apply to contracts by the El Dorado County Water Agency, as provided for in Chapter 2139 of the Statutes of 1959.

21461. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may have the work done by force account without advertising for bids. The district may purchase in the open market

without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

Article 112. Mojave Water Agency

21470. The provisions of this article shall apply to contracts by the Mojave Water Agency, as provided for in Chapter 2146 of the Statutes of 1959.

21471. Subject to the limitations in Section 14 of Chapter 166 of the Statutes of 1967, the agency may join with one or more public agencies, private corporations, or other persons for that purpose to carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions, and operations. Such contract may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. The term "public agency" as used in this section shall be deemed to mean and include the United States or any department or agency thereof of the State of California or any department or agency thereof, a county, city, public corporation, or other public district of this state. The term "private corporation" as used in this section shall be deemed to mean and include any private corporation organized under the laws of the United States or of this or any other state thereof. Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States or any department or agency thereof, or with any private corporation organized under the laws of the United States, by which the Mojave Water Agency, or any improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualifed electors of the agency, or an improvement district thereof, voting at a special election to be held for that purpose, such election to be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of such contract need not be available at the time of the special election, but the (1) purpose of the contract; (2) maximum amount of the indebtedness created thereby; (3) maximum term of repayment, and (4) maximum interest rate on

such indebtedness shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or an improvement district thereof, at such special election.

Article 113. Antelope Valley-East Kern Water Agency

21480. The provisions of this article shall apply to contracts by the Antelope Valley-East Kern Water Agency, as provided for in Chapter 2146 of the Statutes of 1959.

21481. The Antelope Valley-East Kern Water Agency shall have the power to join with one or more public agencies, private corporations, or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions, and operations. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. The term "public agency," as used in this paragraph, shall be deemed to mean and include the United States or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, the Metropolitan Water District of Southern California, or public district of this state. The term "private corporation," as used in this paragraph, shall be deemed to mean and include any private corporation organized under the laws of the United States or of this or any other state thereof. Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States or any department or agency thereof, or with any private corporation organized under the laws of the United States, by which the Antelope Valley-East Kern Water Agency incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualified electors of the agency voting at a special election to be held for that purpose, such election to be called and held, so far as practicable, in the same manner as bond elections for the agency.

Article 114. Kern County Water Agency

21490. The provisions of this article shall apply to contracts by the Kern County Water Agency, as provided for in Chapter 1003 of the Statutes of 1961.

21491. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed ten thousand dollars ($10,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds ten thousand dollars ($10,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 115. Desert Water Agency

21500. The provisions of this article shall apply to contracts by the Desert Water Agency, as provided for in Chapter 1069 of the Statutes of 1961.

21501. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The

board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed ten thousand dollars ($10,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased, if the cost thereof exceeds ten thousand dollars ($10,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 116. San Gorgonio Pass Water Agency

21510. The provisions of this article shall apply to contracts by the San Gorgonio Pass Water Agency, as provided for in Chapter 1435 of the Statutes of 1961.

21511. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon

the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed ten thousand dollars ($10,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased, if the cost thereof exceeds ten thousand dollars ($10,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 117. Alpine County Water Agency

21520. The provisions of this article shall apply to contracts by the Alpine County Water Agency, as provided for in Chapter 1896 of the Statutes of 1961.

21521. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000) shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into several convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property, the board may have the work done by force account without advertising for bids. In such event a majority vote of all board members shall be required. The board may purchase in the

open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

Article 118. Castaic Lake Water Agency

21530. The provisions of this article shall apply to contracts by the Castaic Lake Water Agency, as provided for in Chapter 28 of the Statutes of the 1962 First Extraordinary Session.

21531. The Castaic Lake Water Agency shall have power to prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property; provided, that all contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation published in the agency or by two insertions in a nondaily newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in any newspaper of general circulation distributed in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 119. Crestline-Lake Arrowhead Water Agency

21540. The provisions of this article shall apply to contracts by the Crestline-Lake Arrowhead Water Agency, as provided for in Chapter 40 of the Statutes of the 1962 First Extraordinary Session.

21541. The Crestline-Lake Arrowhead Water Agency shall have power to prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property; provided, that all contracts for the construction of any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 120. San Diego County Flood Control District

21550. The provisions of this article shall apply to contracts by the San Diego County Flood Control District, as provided for in Chapter

55 of the Statutes of the 1966 First Extraordinary Session.

21551. (a) All contracts for any project or work of improvement when the cost thereof, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), exclusive of the estimated cost of materials or supplies, shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district.

(b) The board shall make call for bids and publish such call pursuant to Section 6063a of the Government Code in a daily newspaper of general circulation or pursuant to Section 6062a of the Government Code in a weekly newspaper of general circulation in the district inviting sealed proposals for the construction or performance of the work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event no proposals are received pursuant to advertisement therefor, or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may, without advertising for bids therefor, have the work done by day labor, under the direction of the board by contract, or by a combination of the two. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any project or work of improvement or for any other purpose; provided, however, that materials and supplies for use in any new construction project or work of improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds three thousand five hundred dollars ($3,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

(c) If any change or alteration in a contract awarded under the provisions of this section is deemed necessary and the cost thereof does not exceed 10 percent of the original contract price, the board may authorize the contractor to proceed with the change or alteration without the formality of obtaining bids therefor. If a

change or alteration in a contract awarded under the provisions of this section is requested by any person or public agency, other than the district, which person or public agency agrees to pay all or a portion of the cost of such change or alteration, the board may authorize the contractor to proceed with such change or alteration without the formality of obtaining bids therefor, provided that the cost of such change or alteration does not exceed 15 percent of the original contract price. The aggregate cost of all change orders shall not exceed 25 percent of the original contract price.

Article 121. Metropolitan Water District

21560. The provisions of this article shall apply to contracts by a Metropolitan Water District, as provided for in Chapter 209 of the Statutes of 1969.

21561. As used in this article, "public corporation" means and includes the United States or any other public agency thereof or this or any other state or any political district or subdivision thereof.

21562. A district may join with one or more other public or private corporations (within or without this state) for the purpose of carrying out any of its powers, and for that purpose may contract with any such other public or private corporation to finance acquisitions, constructions, and operations.

21563. Any contract with any other public or private corporation pursuant to Section 21562 may provide for contributions to be made by each party and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, services, and products from the contract. Any such contract may provide for an agency to effect such acquisitions and carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Any such contract may contain such other and further covenants and agreements as may be necessary and convenient to accomplish such purposes.

21564. The board may prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or for the performance or furnishing of labor, materials, or supplies required for the carrying out of any of the purposes of this act.

21565. Whenever any work is not to be done by the district itself by force account, and the amount involved shall be twenty-five thousand dollars ($25,000) or more, the board shall provide for the letting of contracts to the lowest responsible bidder, after publication of notices inviting bids, but subject to the right of the board to reject any and all proposals.

21566. The board, in advertising for bids and in letting contracts as provided in Section 21565, may require that all articles furnished to the district pursuant to such contracts be manufactured, produced, or fabricated in the United States or its territories, and

may prohibit the use in, or employment in connection with, the carrying out of such contracts by the contractor or any subcontractor, of all machinery or materials except those which have been manufactured, produced, or fabricated in the United States or its territories, if they are determined by the board to be available.

21567. Notwithstanding the requirements of Section 21566, contracts, in writing or otherwise, may be let without advertising for, or inviting, bids, when any repairs, alterations, or other work, or the purchase of materials, supplies, equipment or other property, is deemed by the board to be of urgent necessity, and such action is authorized by a two-thirds vote of the board.

Article 122. Madera County Flood Control and Water Conservation Agency

21570. The provisions of this article shall apply to contracts by the Madera County Flood Control and Water Conservation Agency, as provided for in Chapter 916 of the Statutes of 1969.

21571. The agency shall have the power to make contracts, employ labor, and do all acts necessary for the full exercise of its purpose and powers. Those contracts determined by the board to be let for bid shall be in accordance with rules and regulations adopted by the board for the letting of contracts for such agency. The board may determine to have any work or services performed by contract, or employees of the agency, or in any combination thereof which is economical and expedient for the purpose of the agency.

21572. Any improvement or unit of work, except as hereinafter provided, estimated to cost in excess of five thousand dollars ($5,000), shall be done by contract and let to the lowest responsible bidder in the manner hereinafter provided. The board of directors of the agency shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the agency, inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board, conditioned upon the faithful performance of the contract, and upon the payment of the claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code, and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids, and readvertise for new bids, or by a two-thirds vote may elect to undertake such work by force account. In the event no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of emergency work necessary in order to protect life and property, the board of directors by unanimous

vote of all members present may without advertising for bids therefor have said work done by force account. The agency shall have the power to purchase in the open market without advertisement for bids thereof, materials and supplies for use in any work therewith either under contract or by force account.

Article 123. Tulare County Flood Control District

21580. The provisions of this article shall apply to contracts by the Tulare County Flood Control District, as provided for in Chapter 1149 of the Statutes of 1969.

21581. Any improvement or unit of work when the cost thereof according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise such call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed in said district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board a good and sufficient bond to be approved by the board conditioned upon the payment of their claims for labor and material in connection therewith, such bond to contain the terms and conditions set forth in Chapter 3 (commencing with Section 4200) of Division 5, of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids and readvertise for new bids, or by a two-thirds vote may elect to undertake such work by force account. In the event no proposals are received pursuant to advertisement therefor, or the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by employees of the district, by day labor, under the direction of the board, by contract, or by a combination thereof. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any

work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 124. Bighorn Mountains Water Agency

21590. The provisions of this article shall apply to contracts by the Bighorn Mountains Water Agency, as provided for in Chapter 1175 of the Statutes of 1969.

21591. Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed twenty-five thousand dollars ($25,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, if there is a newspaper printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids and readvertise, or by a two-thirds vote may elect to undertake such work by force account. In the event no proposals are received, or the estimated cost of the work does not exceed twenty-five thousand dollars ($25,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds twenty-five thousand dollars ($25,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 125. Tuolumne County Water Agency

21600. The provisions of this article shall apply to contracts by the Tuolumne County Water Agency, as provided for in Chapter 1236 of the Statutes of 1969.

21601. Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be done by contract and let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids and readvertise, or, by a two-thirds vote, may elect to undertake such work by force account. In the event no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may have the work done by force account without advertising for bids. The district may purchase in the open market without advertising for bids, materials, and supplies for use in any work, either under contract or by force account.

Article 126. Tahoe-Truckee Sanitation Agency

21610. The provisions of this article shall apply to contracts by the Tahoe-Truckee Sanitation Agency, as provided for in Chapter 1560 of the Statutes of 1971.

21611. As used in this article:

(a) "Public entity" means and includes the United States, the state and any county, city, public corporation, or public district of the state, and any department, entity, agency, or authority of any thereof.

(b) "Private corporation" means and includes any private corporation organized under the laws of the United States or of any state.

21612. The agency may join with one or more public entities,

private corporations, or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose may contract with any such other public entity, private corporation, or person to finance acquisitions, constructions, and operations.

21613. Any contract with any other public entity, private corporation, or person may provide for contributions to be made by each party thereto, for the division and apportionment of the benefits, services, and products thereof. Any such contract may also provide that the agency will effect any acquisition or carry on any operations, and may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof.

21614. The agency may prescribe methods for construction of works and for the letting of contracts for any of the following purposes:

(a) The construction of works, structures, or equipment;

(b) The performance or furnishing of labor, materials, or supplies necessary or convenient for carrying out any of the purposes of this act; or

(c) The acquisition or disposal of any real or personal property.

21615. When any agency expenditure exceeds five thousand dollars ($5,000), it shall be contracted for and let to the lowest responsible bidder after notice.

21616. The board may establish the manner of calling for bids and letting contracts, and all contracts shall be entered into upon such terms and in such manner as the board may authorize.

21617. If no bids are received upon any call for bids, the board may let the contract without further complying with Section 159 of Chapter 1560 of the Statutes of 1971.

Article 127. Monterey Peninsula Water Management District

21620. The provisions of this article shall apply to contracts by the Monterey Peninsula Water Management District, as provided for in Chapter 527 of the Statutes of 1977.

21621. Any improvement or unit of work, when the cost thereof according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether such contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall call for bids and advertise such call by publication pursuant to Section 6061.3 of the Government Code in a newspaper of general circulation published or circulated in the district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be

divided into severable convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interests of the district.

21622. The board shall require the successful bidder or bidders to file with the board, good and sufficient bonds, to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith. Such contracts shall be subject to the provisions of Title 15 (commencing with Section 3200) of Part 4 of Division 3 of the Civil Code.

21623. The board shall also have the right to reject any and all bids and readvertise for new bids, or by a two-thirds vote may elect to undertake such work by force account. When no proposals are received pursuant to advertisement therefor, or when the estimated cost of such work does not exceed the sum of five thousand dollars ($5,000), or when the work consists of channel protection, maintenance work, or emergency work necessary in order to protect life and property from impending damage, the board may, without advertising for bids therefor, have such work done by employees of the district by day labor under the direction of the board, by contract, or by a combination thereof. The district shall have the power to acquire in the open market without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000) without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 128. Merced County Flood Control District

21630. The provisions of this article shall apply to contracts by the Merced County Flood Control District, as provided for in Chapter 1311 of the Statutes of 1982.

21631. Any improvement or unit of work when the cost thereof, according to the estimate of the engineer, will exceed six thousand five hundred dollars ($6,500), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner hereinafter provided. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or shall be divided into severable convenient parts, or both, according to the best interests of the district. The board shall make call for bids and advertise the call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed in the district inviting sealed proposals for the construction or performance of the improvement or work before any

contract is made therefor. The call for bids shall state whether the work is to be performed as a unit for the whole thereof or shall be divided into severable convenient specific parts, or both, as stated in the call. The board may let the work by single contract for the whole thereof as a unit or it may divide the work into severable convenient parts by separate contracts, as stated in the call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board a good and sufficient bond, to be approved by the board, conditioned upon the payment of their claims for labor and material in connection therewith. The bond shall contain the terms and conditions set forth in Chapter 5 (commencing with Section 5100) of Part 1 of Division 2 of the Public Contracts Code and be subject to the provisions of that chapter. The board may reject any and all bids and readvertise for new bids, or by a two-thirds vote may elect to undertake the work by force account. If no proposals are received pursuant to advertisement therefor, or the estimated cost of the work does not exceed the sum of six thousand five hundred dollars ($6,500), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may, without advertising for bids therefor, have the work done by employees of the district, by day labor, under the direction of the board, by contract, or by a combination thereof. The district may acquire in the open market, without advertising for bids therefor, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except that work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds six thousand five hundred dollars ($6,500), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

Article 129. Colusa County Flood Control and Water Conservation District

21640. The provisions of this article shall apply to contracts by the Colusa County Flood Control and Water Conservation District, as provided for in Chapter 926 of the Statutes of 1983.

21641. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of twenty-five thousand dollars ($25,000) shall be let to the lowest responsible bidder in the manner as provided.

The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned

upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The board may reject any and all bids.

If all proposals are reject or no proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of twenty-five thousand dollars ($25,000) or where the work consists of channel protection, or maintenance work, or emergency work necessary in order to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids therefor, have the work done by force account. The district may purchase in the open market, without advertising for bids thereof, materials and supplies for use in any work either under contract or by force account.

The provisions of this section have no application to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

SEC. 70. Section 3 of Chapter 349 of the Statutes of 1873–74 is amended to read:

Sec. 3. The term of office of directors of the district shall be four years. At the general election for the election of state and county officers to be held next after the effective date of this act and at the general election to be held each fourth year thereafter three directors (who shall hold office for four years after the first Monday in March following their election and until their successors have been elected and qualify) shall be elected.

The directors shall each, within 10 days after their election, take the usual oath of office, and at their first meeting shall elect a chairperson and a clerk from their number. A majority of the members of the board of directors shall constitute a quorum for the transaction of any business. The board of directors are hereby constituted and declared to be the legal representatives and successors to the Board of Supervisors of Sutter County, in all matters appertaining to Levee District No. 1, and are hereby authorized to take absolute charge, control and possession of all levees, or other works of reclamation, and all property, real and personal, belonging to said district, and to perform all the duties appertaining to said levee district heretofore devolving on said board of supervisors, except as herein provided. Each director of said district shall, before taking office and within 10 days after his election or appointment, file a bond in the sum of five hundred dollars ($500), with sufficient sureties, conditions for the faithful performance of his official duties, said bond to be approved by the judge of the superior court of Sutter County and to be filed in the office of the county clerk of said county. The board of directors of said district shall, in addition to the duties now required of them by law, keep all necessary and proper books of account in which shall be entered all receipts and expenditures, with the source and nature of the same, for or on behalf of said district, and shall keep a minute book in which shall be entered the

proceedings of each meeting of said board. The books and accounts of the district shall be experted once a year and the said board shall annually publish, in a newspaper printed and published in said district, a complete statistical report showing in detail the financial transactions for and on behalf of the district for the preceding year and the financial condition of the district. The board shall keep an office in said district for the transaction of the business thereof, and all books, maps, records, papers, and contracts relating to the affairs of the district shall at all times be open to the inspection of the taxpayers of the district and all persons interested therein. The board shall hold regular meetings on the second Monday of each and every month and special meetings may be held at any time, all of the members of the board being present; or special meetings may be ordered by a majority of the board by an order in writing signed by the members calling such meeting. At least one day's notice of such special meeting must be given, personally or by mail, to the members not joining in the order. All meetings must be held at the office of the board. No member of the board shall be interested, directly or indirectly, in any property purchased for the use of the district, nor in the purchase or sale of any property belonging to the district, nor in any contract made by the board, or other person, on behalf of the district, for the construction or repair of any levee or other improvement for the district.

SEC. 71. Section 6 of Chapter 201 of the Statutes of 1895 is amended to read:

Sec. 6. Each protection district shall be governed and controlled by the board of supervisors of the county in which it is situated. The board shall have power, in the name of the county and in behalf of the district, to purchase, receive by donation, or acquire by condemnation any real or personal property necessary to carry out the purposes for which the district was formed. The board shall also have power to employ such engineers, surveyors and others as may be necessary to survey, plan or locate, or supervise the construction or repair of, the improvements necessary to carry out the purposes for which the district was formed; to construct, maintain and keep in repair any and all improvements, and do all other things requisite or necessary to carry out the purposes of the district; and to employ the services of any person, legal or otherwise, which in the judgment of the board, may be necessary to carry out said purposes.

SEC. 72. Section 26 of Chapter 201 of the Statutes of 1895 is repealed.

SEC. 73. Section 49 of Chapter 238 of the Statutes of 1903 is repealed.

SEC. 74. Section 141 of Chapter 238 of the Statutes of 1903 is repealed.

SEC. 75. Section 48 of Chapter 25 of the Statutes of 1907 is repealed.

SEC. 76. Section 12 of Chapter 310 of the Statutes of 1905 is repealed.

SEC. 77. Section 8 of Chapter 222 of the Statutes of 1909 is amended to read:

Sec. 8. Each storm water district shall have power to sue and be sued. The trustees thereof shall have power in the name and in behalf of the district to purchase, receive by donation or acquire by condemnation any rights of way or other real or personal property necessary to carry out the purposes for which the district was formed, and for that purpose all the provisions of the Code of Civil Procedure relating to eminent domain are hereby made applicable to proceedings by such district to condemn property. The said board of trustees shall also have power to employ such engineers, surveyors and others as may be necessary to survey, plan, or locate, or supervise the construction or repair of, the improvements necessary to carry out the purposes for which the district was formed; to construct, maintain and keep in repair any and all improvements, requisite or necessary to carry out the purposes of the district; and to do any and all other acts and things necessary or required for the protection of the lands in said district from damage from storm waters and from waters of any innavigable stream, watercourse, canyon or wash; or for the spreading, conserving, storing, retaining or causing to percolate into the soil within such district any or all of such waters; and to employ the services of any person, legal or otherwise, which in the judgment of said board of trustees may be necessary to carry out said purposes.

SEC. 78. Section 15 of the Los Angeles County Flood Control District Act (Chapter 755 of the Statutes of 1915) is repealed.

SEC. 78.5. Section 15a of the Los Angeles County Flood Control District Act (Chapter 755 of the Statutes of 1915) is repealed.

SEC. 79. Section 15b of the Los Angeles County Flood Control District Act (Chapter 755 of the Statutes of 1915) is repealed.

SEC. 80. Section 9 of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is amended to read:

Sec. 9. The board of supervisors shall in conclusion of the aforementioned hearing and as a sufficient determination of all questions arising thereat, by resolution or resolutions to be entered upon its minutes, declare its finding, determining, in its discretion, either that the work shall be ordered or that all proceedings shall be abandoned. If said board determines that said work shall be ordered it shall further determine the boundaries of the district and finally approve the plans and specifications. If no changes be made in the boundaries of the district as set forth in the resolution of intention it shall be sufficient to state that the boundaries of the district are those shown on the map or plat thereof and set forth in the resolution of intention; if any change of such boundaries is made, the engineer of construction shall file with the clerk of the board of supervisors a new map or plat on which are shown the boundaries of the district as finally determined. If no change be made in the plans and specifications, it shall be sufficient to state that such plans and specifications are approved. If any change of such plans and

specifications is made, they shall be approved as changed.

In either case, the boundaries of the district as finally determined shall be the boundaries of the district for all purposes of the proceeding and until any bonds to be issued for the cost of the work shall have been fully paid and discharged; the plans and specifications as finally approved shall be the plans and specifications of the district for all purposes of the proceeding. The boundaries of the district as shown on the map or plat thereof required by Section 1 of this act and as set forth in the resolution of intention, shall not be so changed as to include within the district any territory not within the boundaries as shown on the map or plat thereof and set forth in said resolution as published and posted.

SEC. 81. Section 10 of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is repealed.

SEC. 82. Section 11 of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is repealed.

SEC. 83. Section 13 of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is repealed.

SEC. 84. Section 14 of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is repealed.

SEC. 85. Section 15 of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is repealed.

SEC. 86. Section 24b of the Drainage District Improvement Act (Chapter 354 of the Statutes of 1919) is repealed.

SEC. 87. Section 2.13 of the Orange County Flood Control District Act (Chapter 723 of the Statutes of 1927) is repealed.

SEC. 88. Section 15 of the Orange County Flood Control District Act (Chapter 723 of the Statutes of 1927) is repealed.

SEC. 89. Section 15a of the Orange County Flood Control District Act (Chapter 723 of the Statutes of 1927) is repealed.

SEC. 90. Section 15b of the Orange County Flood Control District Act (Chapter 723 of the Statutes of 1927) is repealed.

SEC. 91. Section 15.1 of the Orange County Flood Control District Act (Chapter 723 of the Statutes of 1927) is repealed.

SEC. 92. Section 20 of the American River Flood Control District Act (Chapter 808 of the Statutes of 1927) is repealed.

SEC. 93. Section 36 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is repealed.

SEC. 94. Section 10 of Chapter 78 of the Statutes of 1935 is repealed.

SEC. 95. Section 20 of the San Bernardino County Flood Control District Act (Chapter 73 of the Statutes 1939) is repealed.

SEC. 96. Section 23 of the Ventura County Flood Control District Act (Chapter 44 of the Statutes of the 1944 Fourth Extra Session) is repealed.

SEC. 97. Section 23.1 of the Ventura County Flood Control District Act (Chapter 44 of the Statutes of 1944 Fourth Extra Session) is repealed.

SEC. 98. Section 24 of the Humboldt County Flood Control

District Act (Chapter 939 of the Statutes of 1945) is repealed.

SEC. 99. Section 29 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is repealed.

SEC. 100. Section 23 of the San Luis Obispo County Flood Control and Water Conservation District Act (Chapter 1294 of the Statutes of 1945) is repealed.

SEC. 100.5. Section 23.5 of the San Luis Obispo County Flood and Water Conservation District Act (Chapter 1294 of the Statutes of 1945) is repealed.

SEC. 101. Section 8.3 of the Santa Barbara County Water Agency Act (Chapter 1501 of the Statutes of 1945) is repealed.

SEC. 102. Section 23 of the Monterey County Flood Control and Water Conservation District Act (Chapter 699 of the Statutes of 1947) is repealed.

SEC. 103. Section 10 of the Sonoma County Flood Control and Water Conservation District Act (Chapter 994 of the Statutes of 1949) is repealed.

SEC. 104. Section 10 of the Mendocino County Flood Control and Water Conservation District Act (Chapter 995 of the Statutes of 1949) is repealed.

SEC. 105. Section 22 of the Alameda County Flood Control and Water Conservation District Act (Chapter 1275 of the Statutes of 1949) is repealed.

SEC. 106. Section 23 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is repealed.

SEC. 107. Section 23 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is repealed.

SEC. 108. Section 10 of the Lake County Flood Control and Water Conservation District Act (Chapter 1544 of the Statutes of 1951) is repealed.

SEC. 109. Section 22 of the Contra Costa County Flood Control and Water Conservation District Act (Chapter 1617 of the Statutes of 1951) is repealed.

SEC. 110. Section 8.3 of the Solano County Flood Control and Water Conservation District Act (Chapter 1656 of the Statutes of 1951) is repealed.

SEC. 111. Section 10 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is repealed.

SEC. 112. Section 3.6 of the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952 First Extraordinary Session) is repealed.

SEC. 113. Section 8.3 of the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952 First Extraordinary Session) is repealed.

SEC. 114. Section 20 of the Vallejo Sanitation and Flood Control District Act (Chapter 17 of the Statutes of 1952 First Extraordinary

Session) is repealed.

SEC. 115. Section 22 of the Marin County Flood Control and Water Conservation District Act (Chapter 666 of the Statutes of 1953) is repealed.

SEC. 116. Section 29 of the Contra Costa County Storm Drainage District Act (Chapter 1532 of the Statutes of 1953) is repealed.

SEC. 117. Section 27 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is repealed.

SEC. 118. Section 24 of the Del Norte County Flood Control District Act (Chapter 166 of the Statutes of 1955) is repealed.

SEC. 119. Section 23 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is repealed.

SEC. 120. Section 51 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 121. Section 52 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 122. Section 53 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 123. Section 54 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 124. Section 113 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 125. Section 114 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 126. Section 115 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 127. Section 116 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 128. Section 117 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 129. Section 118 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 130. Section 119 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 131. Section 120 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes

of 1955) is repealed.

SEC. 132. Section 121 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 133. Section 122 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 134. Section 123 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 135. Section 124 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 136. Section 125 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 137. Section 126 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 138. Section 127 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 139. Section 128 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 140. Section 25 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of the 1956 First Extraordinary Session) is repealed.

SEC. 141. Section 12 of the Placer County Water Agency Act (Chapter 1234 of the Statutes of 1957) is repealed.

SEC. 142. Section 15 of the Tehama County Flood Control and Water Conservation District Act (Chapter 1280 of the Statutes of 1957) is repealed.

SEC. 143. Section 70 of the Shasta County Water Agency Act (Chapter 1512 of the Statutes of 1957) is repealed.

SEC. 144. Section 12 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959) is repealed.

SEC. 145. Section 12.1 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959) is repealed.

SEC. 146. Section 12 of the Mariposa County Water Agency Act (Chapter 2036 of the Statutes of 1959) is repealed.

SEC. 147. Section 12 of the Sutter County Water Agency Act (Chapter 2088 of the Statutes of 1959) is repealed.

SEC. 148. Section 25 of the San Mateo County Flood Control District Act (Chapter 2108 of the Statutes of 1959) is repealed.

SEC. 149. Section 16 of the Plumas County Flood Control and Water Conservation District Act (Chapter 2114 of the Statutes of 1959) is repealed.

SEC. 150. Section 16 of the Siskiyou County Flood Control and

Water Conservation District Act (Chapter 2121 of the Statutes of 1959) is repealed.

SEC. 151. Section 44 of the Nevada County Water Agency Act (Chapter 2122 of the Statutes of 1959) is repealed.

SEC. 152. Section 16 of the Sierra County Flood Control and Water Conservation District Act (Chapter 2123 of the Statutes of 1959) is repealed.

SEC. 153. Section 16 of the Lassen-Modoc County Flood Control and Water Conservation District Act (Chapter 2127 of the Statutes of 1959) is repealed.

SEC. 154. Section 42 of the Yuba-Bear River Basin Authority Act (Chapter 2131 of the Statutes of 1959) is repealed.

SEC. 155. Section 12 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is repealed.

SEC. 156. Section 43 of the El Dorado County Water Agency Act (Chapter 2139 of the Statutes of 1959) is repealed.

SEC. 157. Section 22 of the Mojave Water Agency Act (Chapter 2146 of the Statutes of 1959) is repealed.

SEC. 158. Section 61 of the Antelope Valley-East Kern Water Agency Act (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 61. The Antelope Valley-East Kern Water Agency, incorporated as herein provided, shall have power:

1. To have perpetual succession;

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

3. To adopt a seal and alter it at pleasure;

4. To take by grant, purchase, gift, devise, lease, or lease with option to purchase, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the Antelope Valley-East Kern Water Agency;

5. To acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights and privileges and construct, maintain and operate conduits, pipelines, reservoirs, works, machinery, and other property useful or necessary to store, convey, supply, or otherwise make use of water for a waterworks plant or system for the benefit of the agency, and to complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by it as herein authorized;

5a. To construct, maintain, improve, and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the Antelope Valley-East Kern Water Agency, and to provide by ordinance regulations binding upon all persons to govern the use of such facilities including regulations imposing reasonable charges for the use thereof. Violation of any such regulation shall be a misdemeanor;

6. To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or

otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell water under the control of the agency to cities, and to other public corporations and public agencies within the agency, and to the inhabitants of such cities and of other territory within the agency, and to persons, corporations, and other private agencies within the agency for use within said agency without any preference, and it may, whenever the board shall find that there is a surplus of water above that which may be required by such consumers within the agency, sell or otherwise dispose of such surplus water to any persons, firms, public, or private corporations or public agencies or other consumers;

6a. To supply and deliver water to publicly owned and operated golf courses and other publicly owned and operated recreational facilities and to public schools, school districts and public school properties, and to fix and establish special rates, terms, and conditions for the use and sale of water for each of these purposes; provided, however, that this provision shall not be construed to indicate legislative intent either for or against the existence of any power of the agency to furnish water to other persons, firms or corporations at just and reasonable rates;

7. To exercise the right of eminent domain to take any property necessary to supply the agency or any portion thereof with water, and to carry out any other powers of the agency. The agency, in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be removed to a new location. The agency may exercise the power of eminent domain with respect to property situated outside the boundaries of the agency if it first obtains the consent thereto of the board of supervisors of the county in which such property is located;

8. To issue bonds, borrow money, and incur indebtedness as authorized by law or in this act provided; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof;

8a. To issue negotiable promissory notes bearing interest at a rate not exceeding 8 percent per annum; provided, however, that the notes shall be payable from revenues and taxes legally derived subject to any maximum property tax rate procedure; and provided further, that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of such notes outstanding at any one time may be at least equal to seventy-five thousand dollars ($75,000) in the Antelope Valley-East Kern Water Agency but shall not otherwise exceed the lesser of either two million dollars ($2,000,000) or 2 percent of the assessed valuation of the taxable property in the Antelope Valley-East Kern Water Agency or,

if the assessed valuation is not obtainable, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate;

9. To cause taxes to be levied, in the manner hereinafter provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor;

9a. To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit use of such water during such periods for specific uses which the agency may from time to time find to be nonessential;

10. To prescribe and define by ordinance the restrictions, prohibitions, and exclusions referred to in paragraph 9a hereof. Every ordinance relating to the matters referred to in this paragraph shall be in full force and effect forthwith upon adoption, but shall be published pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation, printed, published, and circulated in the agency within 10 days after adoption, or if there be no such newspaper it shall be posted within that time in three public places within the agency;

11. To make contracts, to employ labor, and do all acts necessary for the full exercise of the agency's powers;

12. To provide by ordinance of its board of directors for the pensioning of officers or employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the agency, the wages of officers or employees, voluntary contributions, gifts, donations, or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such officers or employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of officers or employees before such pensions shall be available to them;

13. To acquire, control, distribute, store, spread, sink, treat, purify, reclaim, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses and protection of the agency or its inhabitants or the owners of rights to water therein;

14. To commence, maintain, intervene in, and compromise, in the name of the agency, any action or proceeding involving or affecting the ownership or use of water or water rights within the agency, used or useful for any purpose of the agency, or a common benefit to lands within the agency or its inhabitants;

15. Distribute water to persons in exchange for ceasing or reducing groundwater extractions and to fix the terms and conditions of any contract under which producers may agree

voluntarily to use water from a nontributary source in lieu of groundwater, and to such end the agency may become a party to such contract and pay from agency funds such portion of the cost of such waters as will encourage the purchase and use of such water in lieu of pumping so long as the persons or property within the agency are directly or indirectly benefited;

16. To issue bonds under Section 68 of this act for the purpose of providing money required to be paid to the agency organized under the Metropolitan Water District Act by the board of directors of the agency as all or part of the terms and conditions upon which the corporate area of the Antelope Valley-East Kern Water Agency may be annexed to and become a part of that metropolitan water district. The amount of the bonds may include expenses of all proceedings for the authorization, issuance, and sale of the bonds;

17. To issue revenue bonds for any purpose for which such bonds could be issued under the provisions of the Revenue Bond Law of 1941 or any other law which by its terms is applicable to the agency formed under this act;

18. To use the Improvement Act of 1911 for the construction of any facilities authorized to be constructed under the provisions of this act. The powers and duties conferred by the Improvement Act of 1911 on the various boards, officers, and agents of cities shall be exercised by the respective boards, officers, and agents of the Antelope Valley-East Kern Water Agency. In the application of said Improvement Act of 1911 to proceedings instituted by the Antelope Valley-East Kern Water Agency, the terms used in said Improvement Act of 1911 shall have the following meanings:

(a) "City council" and "council" shall mean the Board of Directors of the Antelope Valley-East Kern Water Agency.

(b) "Municipality" and "city" shall mean the Antelope Valley-East Kern Water Agency.

(c) "Clerk" and "city clerk" shall mean the secretary.

(d) "Superintendent of streets," "street superintendent" and "city engineer" shall mean the chief engineer of the agency.

(e) "Tax collector" shall mean the county tax collector.

(f) "Treasurer" and "city treasurer" shall mean the treasurer of the Antelope Valley-East Kern Water Agency.

(g) "Mayor" shall mean the president of the board of directors of the Antelope Valley-East Kern Water Agency.

(h) "Right-of-way" shall mean any parcel of land in, on, under or through which a right-of-way or easement has been granted to the agency for the purpose of constructing and maintaining any works or improvements of the Antelope Valley-East Kern Water Agency.

Any certificates or documents required to be filed or recorded in the office of the superintendent of streets or street superintendent shall be filed or recorded in the office of the secretary of the Antelope Valley-East Kern Water Agency.

19. To disseminate information concerning the rights, properties, and activities of the agency.

20. To construct, maintain, improve, and operate one or more plants for the generation of hydroelectric power and transmission lines for the conveyance thereof. The plant or plants so constructed shall be operated in a manner consistent with the agency's storage, transmission, and distribution of water. Construction of the plant or plants and transmission lines may be financed as provided herein for other agency works. The plant or plants and transmission lines so constructed may be leased for operation to, or the power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity.

The power generated may be used by the agency for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the agency to customers other than a public utility or public agency for any use other than the production or transmission of water.

SEC. 159. Section 12 of the Kern County Water Conservation Agency Act (Chapter 1003 of the Statutes of 1961) is repealed.

SEC. 160. Section 16 of the Desert Water Agency Act (Chapter 1069 of the Statutes of 1961) is amended to read:

Sec. 16. All powers, privileges and duties vested in or imposed upon the Desert Water Agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the officers created hereby and by the board of directors acting hereunder.

The board of directors shall have the power:

(1) To fix the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal and engineering assistants and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in

accordance with terms and conditions of annexation fixed by the board under the provisions of Section 36 or 37 hereof, shall be deemed to be a rate for a different class or condition of service.

SEC. 161. Section 16 of the San Gorgonio Pass Water Agency Act (Chapter 1435 of the Statutes of 1961) is amended to read:

Sec. 16. All powers, privileges and duties vested in or imposed upon the agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the officers created hereby and by the board of directors acting hereunder.

The board of directors shall have the power:

(1) To fix the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal and engineering assistants and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation fixed by the board under the provisions of Section 36 or 37 hereof, shall be deemed to be a rate for a different class or condition of service.

SEC. 162. Section 44 of the Alpine County Water Agency Act (Chapter 1896 of the Statutes of 1961) is repealed.

SEC. 163. Section 16 of the Castaic Lake Water Agency Act (Chapter 28 of the Statutes of 1962 First Extraordinary Session) is amended to read:

Sec. 16. All powers, privileges and duties vested in or imposed upon the agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the offices created hereby and by the

board of directors acting hereunder.

The board of directors shall have the power:

(a) To fix the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings.

(b) To fix the location of the principal place of business of the agency and the locations of all offices and departments maintained hereunder.

(c) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(d) To prescribe by ordinance a system of civil service.

(e) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal and engineering assistants and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(f) To prescribe a method of auditing and allowing or rejecting claims and demands.

(g) To fix the rates at which water shall be sold, as provided herein, and to establish uniform rates for like classes of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation fixed by the board under the provisions of Section 36 or 37 hereof, may be deemed to be a rate for a different class or condition of service.

SEC. 164. Section 15 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of 1962 First Extraordinary Session) is amended to read:

Sec. 15. All powers, privileges and duties vested in or imposed upon the Crestline-Lake Arrowhead Water Agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the offices created hereby and by the board of directors acting hereunder.

The board of directors shall have all of the following powers:

(1) To fix the time and place or places at which its regular meetings shall be held and shall provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal and engineering assistants and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation fixed by the board under the provisions of Section 32 or 33 hereof, shall be deemed to be a rate for a different class or condition of service.

SEC. 165. Section 33 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966 First Extraordinary Session) is repealed.

SEC. 166. Section 150 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 167. Section 151 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 168. Section 152 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 169. Section 153 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 170. Section 154 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 171. Section 155 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 172. Section 156 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is repealed.

SEC. 173. Section 254 of the Madera County Flood Control and Water Conservation Agency Act (Chapter 916 of the Statutes of 1969) is repealed.

SEC. 174. Section 750 of the Madera County Flood Control and Water Conservation Agency Act (Chapter 916 of the Statutes of 1969) is repealed.

SEC. 175. Section 25 of the Tulare County Flood Control District Act (Chapter 1149 of the Statutes of 1969) is repealed.

SEC. 176. Section 16 of the Bighorn Mountains Water Agency Act (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 16. All powers, privileges and duties vested in or imposed upon the Bighorn Mountains Water Agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the officers created hereby and by the board of directors acting hereunder.

The board of directors shall have the power:

(1) To fix the time and place or places at which its regular

meetings shall be held, and shall provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal, and engineering assistants and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service; provided, that rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation, shall be deemed to be a rate for a different class or condition of service.

SEC. 177. Section 40 of the Tuolumne County Water Agency Act (Chapter 1236 of the Statutes of 1969) is repealed.

SEC. 178. Chapter 5 (commencing with Section 155) of Part 4 of the Tahoe-Truckee Sanitation Agency Act (Chapter 1560 of the Statutes of 1971) is repealed.

SEC. 179. Section 491 of the Monterey Peninsula Water Management District Act (Chapter 527 of the Statutes of 1977) is repealed.

SEC. 180. Section 492 of the Monterey Peninsula Water Management District Act (Chapter 527 of the Statutes of 1977) is repealed.

SEC. 181. Section 493 of the Monterey Peninsula Water Management District Act (Chapter 527 of the Statutes of 1977) is repealed.

SEC. 182. Section 27 of the Merced County Flood Control District Act (Chapter 1311 of the Statutes of 1982) is repealed.

SEC. 183. Section 408 of the Colusa County Flood Control and Water Conservation Act (Chapter 926 of the Statutes of 1983) is repealed.

CHAPTER 1129

An act to add Section 11312 to the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11312 is added to the Welfare and Institutions Code, to read:

11312. (a) For purposes of this section, "refugees" is defined as that term is defined in the Federal Refugee Act of 1980 (P.L. 96-212), except that this section does not apply to any refugee included in the Refugee Cash Assistance Demonstration Project proposed by Senate Bill 2035 of the 1983–84 Regular Session, if Senate Bill 2035 is enacted during the 1983–84 Regular Session.

(b) A refugee required to participate in the WIN program pursuant to Section 11310 shall be required, as a condition of eligibility under this chapter, and subject to the sanctions specified in Section 11308, to participate in programs funded by the Federal Office of Refugee Resettlement if these programs are deemed by the Employment Development Department as appropriate programs to prepare a refugee for employment. WIN program cases currently designated as unclassified shall have the first priority for referral.

(c) A refugee participating in the WIN program pursuant to this section shall have the same rights to receive support services as any other WIN program participant.

(d) A refugee participating in the WIN program pursuant to this section shall have all rights provided to any other WIN program recipient pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code.

(e) The department, together with the State Department of Social Services, shall seek additional federal funding to pay for allowances, training-related expenses, work-related expenses, incentive payments, and other supportive service payments.

Except for this subdivision, this section shall be implemented only if adequate federal funding is made available. In determining whether adequate funds are available, pursuant to this subdivision, federal work incentive program funding shall not be included.

SEC. 2. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted for purposes of this act by the State Department of Social Services or the Employment Development Department within 120 days of the enactment of this act shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days

unless the agency complies with all of the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the state may realize maximum benefits from funding provided to refugee recipients of the Aid to Families with Dependent Children program and in order to expand training in acculturation, English as a second language, vocational education, and job seeking techniques, and to provide an opportunity for those recipients to gain work skills as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1130

An act to add Section 65303.4 to the Government Code, and to add Section 7048 to the Water Code, relating to water resources.

[Approved by Governor September 13, 1984 Filed with Secretary of State September 14, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 65303.4 is added to the Government Code, to read:

65303.4. The Department of Water Resources and the Department of Fish and Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

SEC. 2. Section 7048 is added to the Water Code, to read:

7048. (a) The Legislature hereby finds and declares that the protection, restoration, and enhancement of urban creek channels provides potential benefits to the state by combining an effective and low-cost means of flood control protection with the preservation and enhancement of natural environmental values. The Legislature further finds that urban creek protection, restoration, and enhancement are best undertaken by local agencies and organizations with assistance from the state. It is the intent of the Legislature in enacting this section to restore the ecological viability of creek environments located in predominantly urban areas, thereby enhancing aesthetic, recreational, and fish and wildlife values.

(b) The director may establish a program of flood control and urban creek restoration. The program shall consist of the development of the capability by the department to respond to

requests from local agencies and organizations for planning and design assistance for low-cost and effective urban creek protection, restoration, and enhancement. Urban creek protection, restoration, and enhancement shall include maintenance of channel capacity, channel stabilization, vegetation management, and long-term maintenance projects in order to meet flood control objectives. Where appropriate, the protection, restoration, and enhancement shall utilize low-cost, nonstructural low-maintenance flood protection techniques. The department shall utilize in this program its expertise in a variety of disciplines, including, but not limited to, bioengineering, hydrology, and plant ecology.

(c) In responding to requests for assistance, the department shall give priority to those projects which are being planned in conjunction with, or in lieu of, local flood control projects. The department may award grants and contracts to local agencies and organizations as provided for in the budget of the department. Participating local agencies shall follow procedures, plans, and practices which are acceptable to the department, and shall conform to guidelines established by the department which define the level of contribution and participation required by local agencies.

The department shall coordinate the program with the Department of Fish and Game during the formulation of guidelines and project planning for urban creek protection, restoration, and enhancement. The department shall also consult with the Department of Fish and Game on project criteria which may include economic, environmental, and social benefits to be achieved.

(d) It is the intent of the Legislature that the duties and responsibilities of the department and the Department of Fish and Game as provided for in this section be accomplished by utilizing existing staff resources, as available.

(e) As used in this section, "urban creek" means a creek which crosses built-up residential, commercial, or industrial property, or which crosses land where, in the near future, the land use will be residential, commercial, or industrial.

(f) For the purpose of this section, improvements include maintenance of channel capacity and stabilization of the morphological equilibrium of a natural channel for purposes of flood control, erosion control, and bank stabilization. Improvements may include nonstructural as well as structural projects.

SEC. 3. This act shall be known and may be cited as, the Urban Creek Restoration and Flood Control Act.

CHAPTER 1131

An act to add and repeal Section 56476 of the Government Code, relating to the District Reorganization Act of 1965, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 56476 is added to the Government Code, to read:

56476. (a) Prior to the filing of the certificate of completion for a change of organization or a reorganization, the legislative body of the City of Norco or the City of Corona in the County of Riverside may commence proceedings for the levy of assessments or a special tax on the real property subject to the change of organization or reorganization. Additionally, the County of Riverside may commence and complete such proceedings relating to real property within unincorporated territory of the county or within one or both of the cities referred to in this section; provided, that if such property is proposed to be annexed to the City of Corona, the consent of the City of Corona shall be obtained by resolution of the legislative body thereof.

The assessments or special taxes shall be confirmed only upon the completion of the change of organization or reorganization. The assessment may be levied if the legislative body finds that the property is specially benefited by the change of organization or reorganization. The amount to be reimbursed shall be determined by the legislative body. In making the required finding, the legislative body shall consider all of the following:

(1) The increase in value of the affected property from the effective date of the certificate of completion because of a changed entitlement to use and development resulting from the change of organization or reorganization, including any resulting general plan amendment or land use determination.

(2) Any other matter deemed relevant by the legislative body.

(b) The assessment or special tax may be levied to fund the following:

(1) Reimbursement to the property owner or owners whose property is subject to the change of organization or reorganization for all costs incurred in processing the change of organization or reorganization, including, but not limited to, planning, engineering, or legal fees.

(2) All charges, assessments, or fees payable to one or more of the affected cities involved in the change of organization or reorganization.

(3) Any annexation fees or charges owed as a condition of the

change of organization or reorganization.

(4) Any improvements or service permitted to be funded by the procedures prescribed by the Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code or the Mell-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.

(c) The Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code, shall be applicable to the formation and administration of the assessment district formed pursuant to this section.

(d) Bonds to represent the assessments levied on the property may be issued and sold pursuant to the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, or pursuant to the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code.

(e) The Special Assessment Investigation, Limitation and Majority Protest Act of 1931, Division 4 (commencing with Section 2800) of the Streets and Highways Code, and Division 4.5 (commencing with Section 3100) of the Streets and Highways Code shall not apply to this section or to any proceedings carried out under this section.

(f) The items designated in subdivision (b) may be funded pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, as added by Chapter 1451 of the Statutes of 1982, either as an alternative or as an additional procedure to subdivision (c).

(g) This section shall be liberally construed to effectuate its purpose. Any proceedings and any tax or assessment levied under this section shall not be invalidated for failure to comply with the provisions of this section, if such failure should not substantially and adversely affect the rights of any person. All determinations made by the legislative body pursuant to this part shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

(h) This section shall remain in effect until January 1, 1986, and as of that date is repealed unless a later enacted statute which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 2. The Legislature finds and declares that the Cities of Norco and Corona in the County of Riverside have been negotiating the exchange of territory with property owners who proposed to develop a multifamily residential community. The Legislature further finds and declares that the conditions attached to this proposed reorganization by these cities are not common to all cities subject to the District Reorganization Act of 1965. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution and that enactment of this act as a special law is necessary.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Cities of Norco and Corona in the County of Riverside wish to detach and annex property in the City of Norco which may be developed within the boundaries of the annexing City of Corona. In order that such reorganization and development occur at a logical pace, it is necessary that this act go into immediate effect.

CHAPTER 1132

An act to add Section 73.1 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 14, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 73.1 is added to the Revenue and Taxation Code, to read:

73.1. Notwithstanding any other provision of law, for purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, the term "newly constructed" shall not include any addition to, alteration or rehabilitation of, or reconstruction of once extant features of, a certified historic structure, including, but not limited to, any modifications necessary to comply with Health and Safety Code or handicapped access requirements, so long as that addition, alteration, or rehabilitation is in conformance with "The Secretary of the Interior's STANDARDS FOR REHABILITATION and Guidelines for Rehabilitating Historic Buildings."

This section shall apply only if, upon the request of the owner, the state historic preservation officer determines and certifies to the county assessor that the conditions established by this section are satisfied.

This section shall apply only to a dwelling occupied by an owner as his or her principal residence. Whenever the owner uses the property for a purpose other than as his or her principal residence, the assessor shall place on the roll the current cash value of the portion of addition to, alteration or rehabilitation of, or reconstruction of, or reconstruction of once extant features of, the structure which was excluded pursuant to this section.

For purposes of this section:

(a) "Certified historic structure" means any property listed in the National Register or which is listed in a federal, state, or local register or which is located in a registered historic district and is certified by the State Office of Historic Preservation.

(b) "Once extant features" means any features that existed at the time or previous to the time of the listing of the structure as a certified historic structure.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement for property tax revenues lost as a result of this measure for the reason that this measure will implement an amendment to the California Constitution which must be approved by voters of the state and will not become operative until the amendment is adopted by the people.

SEC. 3. The provisions of this act shall become operative only if Assembly Constitutional Amendment No. 69 of the 1983–84 Regular Session of the Legislature is approved by the voters.

CHAPTER 1133

An act to amend Sections 2 and 3 of Chapter 444 of the Statutes of 1984, to amend Section 3 of Senate Bill 1306 of the 1983–84 Regular Session, and to amend and supplement Item 5430-101-725 of the Budget Act of 1984, relating to correctional facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 14, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 2 of Chapter 444 of the Statutes of 1984 is amended to read:

Sec. 2. The Legislature finds and declares that the approval by the electors of the County Jail Capital Expenditure Bond Act of 1984 has made new funds available for county jail capital expenditures in addition to those available from the County Jail Capital Expenditure Bond Act of 1981, and has made necessary certain revisions in the criteria and fund allocations adopted by the Board of Corrections for the distribution of proceeds of bonds authorized by the 1981 act. The Legislature further declares that it would be most efficient and appropriate if funds from both bond acts are allocated under uniform criteria applicable to both acts. Therefore, the Legislature hereby appropriates money in the County Jail Capital Expenditure Fund established by Section 4462 of the Penal Code to the Board of Corrections for allocation as provided by this act, and directs the Board of Corrections to allocate all money in the County Jail Capital Expenditure Fund established by Section 4412 of the Penal Code and appropriated by the Budget Act of 1984 for the fiscal year as provided by this act.

SEC. 2. Section 3 of Chapter 444 of the Statutes of 1984, as

amended by Chapter 500 of the Statutes of 1984, is amended to read:

Sec. 3. Pursuant to its authority to examine factors for the distribution of proceeds of bonds authorized by the County Jail Capital Expenditure Bond Act of 1981 (Title 4.5 (commencing with Section 4400) of Part 3 of the Penal Code) as set forth in Section 4415 of the Penal Code, and pursuant to its authority to establish criteria for the availability of funds pursuant to the County Jail Capital Expenditure Bond Act of 1984 (Title 4.6 (commencing with Section 4450) of Part 3, Penal Code) as set forth in Section 4465 of the Penal Code, the Legislature establishes the following plan for the allocation of funds in the County Jail Capital Expenditure Fund established by Section 4412 of the Penal Code and the County Jail Capital Expenditure Fund established by Section 4462 of the Penal Code:

(a) Each county shall be required to pay 25 percent of the eligible project costs of its projects. However, the Director of Finance, after conferring with the Board of Corrections, has the authority to waive all or a portion of a county's match if the director concludes that a savings will result to the state from a county's not taking all of its maximum augmented allocation as set forth in subdivision (d), and as long as this does not result in the board being unable to fund any county's allocations under subdivision (c). The director may approve a match reduction on terms that he or she deems appropriate.

For the purposes of this section, "eligible project costs" shall mean those reasonable and necessary costs attendant to the construction of local jails, as may be defined by regulation by the Board of Corrections, as set forth in Sections 512 and 514 of Title 15 of the California Administrative Code, as it may be amended from time to time.

(b) The Board of Corrections shall enter into contracts for funding of projects approved by the board when the county is ready to proceed with construction. The county shall be deemed ready to proceed when it has done all of the following:

(1) Filed a final notice of determination on its environmental impact report.

(2) Certified that the county owns or has assured long-term possession of the site for the construction project.

(3) Received approval for compliance with minimum jail standards by the Board of Corrections and for compliance with fire safety regulations by the State Fire Marshal of the plans, specifications, and working drawings for the facility to be constructed or renovated.

(4) Received written approval from the board for any substantial revision of its statement of jail needs or planned construction.

(5) Received construction bids from contractors.

Construction shall be initiated within a reasonable time after the receipt of bids and shall proceed expeditiously, or the contract between the State of California and the county shall become void. The Board of Corrections shall by regulation, define what shall be a reasonable time for this purpose.

If the board concludes that a county's proposed construction or renovation contains serious design deficiencies which, while they would not require a refusal to enter into the contract, would seriously impair the facility's functions, it shall notify the sheriff and the board of supervisors of that county of the deficiencies at least one month prior to entering into a contract with that county. This letter shall be a public record.

The Board of Corrections shall not enter into contracts for amounts which would, if encumbered, exceed the balance remaining in both County Jail Capital Expenditure Funds established by Sections 4412 and 4462 of the Penal Code. The Board of Corrections shall administer and disburse funds under this act pursuant to its existing rules and regulations, as they may be amended from time to time, which are not inconsistent with this act.

Nothing in this act shall be deemed to forbid fast track construction procedures. At the county's request, the Board of Corrections shall enter into contractual commitments for the amount authorized in subdivision (c) when a county employing fast track procedures begins the initial construction phase. However, the Board of Corrections may make these full contractual commitments contingent upon necessary subsequent approvals of plans and specifications, as identified in this subdivision, and upon timely completion of phased construction. The Board of Corrections shall require environmental impact and site ownership or long term occupancy certifications, as identified in this subdivision, prior to entering into contractual commitments.

(c) The following projects shall be funded, subject to the provisions of this act, up to the maximum for each county as set forth in this subdivision.

Each county is assured the amount necessary to complete its project or projects as approved by the board as outlined in this subdivision, up to the maximum amount listed in this subdivision. Unexpended funds, due to lower construction costs, revisions or reduction in plans, or other changes mutually agreed upon by the county and the board, shall revert to the County Jail Capital Expenditure Fund for use in funding other projects of other counties provided for in this subdivision until all counties are provided for.

(1) The 27 county projects listed below for which the Board of Corrections in its allocation of February 16, 1984, pursuant to the County Jail Capital Expenditure Bond Act of 1981, approved an allocation of one million dollars ($1,000,000) or less for each county shall be authorized to be funded up to the following approved allocation:

Butte	$ 1,000,000
Calaveras	283,383
Del Norte	125,000
Glenn	1,000,000
Humboldt	471,067

Inyo	1,000,000
Marin	857,886
Mariposa	250,670
Mendocino	1,000,000
Mono	1,000,000
Monterey	959,475
Napa	1,000,000
Nevada	900,200
Placer	736,275
Plumas	900,000
San Benito	100,000
San Francisco	1,000,000
San Joaquin	1,000,000
San Luis Obispo	487,707
Santa Barbara	1,000,000
Santa Cruz	340,500
Sierra	125,000
Siskiyou	1,000,000
Sonoma	1,000,000
Stanislaus	933,000
Tuolumne	922,100
Yuba	355,233

(2) For the counties specified in this paragraph, the Board of Corrections shall determine for each county which project is the first priority project for the county based upon projects submitted by those counties to the board in 1983. Each of the following counties shall be funded up to the following allocation for its first priority project:

El Dorado	$ 11,194,500
Fresno	26,532,476
Kern	23,913,886
Kings	1,697,200
Merced	3,805,296
Riverside	29,500,000
San Diego	19,227,226

(3) Each of the following counties shall be funded up to the following allocation for the first priority project or first-priority projects submitted by it to the Board of Corrections in 1983:

Alameda	$ 84,100,000
Contra Costa	36,570,521
Los Angeles	96,000,000
Madera	8,512,500
Orange	50,193,087
Sacramento	62,025,000
San Mateo	8,178,100

Santa Clara	46,014,000
Solano	19,677,000
Tulare	17,079,300
Ventura	5,480,795
Yolo	9,892,500

Because two projects submitted by Los Angeles County are considered first-priority projects in meeting that county's critical jail needs, both shall be deemed first-priority projects under this definition. The same shall apply to the three projects submitted by San Mateo County.

(4) Funding for San Bernardino County shall be determined after that county submits its application for its first-priority project and after that county's application has been examined using the same guidelines applied to the applications of counties listed in paragraphs (1), (2), and (3) which were submitted to the Board of Corrections in November of 1983. San Bernardino County shall have a maximum authorization of fifteen million dollars ($15,000,000).

(5) Lake County and Lassen County shall follow the same procedure set forth in paragraph (4) and shall be permitted to apply for funding not to exceed one million dollars ($1,000,000) each.

(6) Funding of up to three million four hundred eighty-nine thousand three hundred thirty-eight dollars ($3,489,338) is authorized, subject to annual Budget Act appropriations, for any costs associated with the sale of bonds and any administrative costs incurred by the Board of Corrections.

(d) In addition to the allocations required by subdivision (c), the Board of Corrections is authorized to make additional allocations to projects included in the 1983 application or new application of counties specified in paragraphs (4) and (5) of subdivision (c) and to counties specified in this subdivision if the allocations would not result in any counties not receiving their allocations required under subdivision (c), subject to the requirements of subdivision (f), but in no case shall the total allocation exceed the following amounts:

(1) Large County Projects: Maximum Augmented Allocation If Extra Funds Become Available

Alameda	$84,100,000
Contra Costa	36,600,000
El Dorado	17,500,000
Fresno	28,200,000
Kern	26,500,000
Kings	2,400,000
Los Angeles	148,800,000
Madera	8,513,000
Merced	4,200,000

Orange	50,200,000
Riverside	31,542,000
Sacramento	62,025,000
San Bernardino	30,000,000
San Diego	22,500,000
San Mateo	8,200,000
Santa Clara	46,027,000
Solano	19,700,000
Tulare	17,100,000
Ventura	5,500,000
Yolo	9,893,000

(2) Small County Projects: Maximum Augmented Allocation if Extra Funds Become Available

Butte	$1,085,300
Calaveras	283,383
Del Norte	125,000
Glenn	1,670,011
Humboldt	655,683
Inyo	1,003,500
Marin	857,886
Mariposa	250,708
Mendocino	1,875,000
Mono	1,209,241
Monterey	959,475
Napa	1,003,500
Nevada	900,150
Sierra	125,587
Placer	736,275
Plumas	900,000
San Benito	100,500
San Francisco	1,590,075
San Joaquin	2,187,545
San Luis Obispo	696,973
Santa Barbara	1,500,000
Santa Cruz	488,250
Siskiyou	2,181,750
Sonoma	4,500,000
Stanislaus	933,000
Tuolumne	922,125
Yuba	355,233

(3) Other county projects to be disbursed pursuant to rules and regulations established by the Board of Corrections to counties which made small project applications under the County Jail Capital Expenditure Bond Act of 1981 ..... $19,200,000

(e) At the request of a county, the board shall have authority to revise projects approved for a county, as provided in the board's February, 1984, listing and as provided for in subdivision (c), if one or more of the following situations exist:

(1) Natural or manmade disasters, such as fire, flood, or earthquake, have seriously damaged or destroyed the county's jail facilities.

(2) Court orders seriously affecting jail population needs or housing have been issued after February, 1984.

(3) The request of a county to revise its plans and priorities will result in an improved ability to meet jail needs or lower costs.

(4) Undue hardships or operational difficulties would result if original plans, as approved by the board in February, 1984, are adhered to.

The funding for such a change may not exceed that listed in subdivision (c), unless there is legislative approval and a special appropriation.

Extra funding requests shall be submitted by the board in bill form once yearly in January, except in cases of emergency.

(f) Forty million dollars ($40,000,000) in earned interest on proceeds from the sale of bonds, plus unexpended funds from approved projects, shall be also allocated for the funding of projects specified in subdivision (c) or authorized by the Board of Corrections pursuant to subdivision (e), but not to exceed a county's maximum allocation under subdivision (c).

Following full funding for commitments in subdivision (c), any additional interest in excess of this amount, any unexpended funds, and any future bond issues for jail construction, or other fund sources that shall become available, shall be allocated first to Los Angeles County to a maximum of twenty-nine million dollars ($29,000,000), and then a maximum of nine million dollars ($9,000,000) to augment small county projects described in paragraph (1) of subdivision (c) for those counties that were not funded for 75 percent of project cost in the allocations of the Board of Corrections in February of 1984.

Available funds in excess of that described above in this subdivision shall be allocated by the board to the following counties specified in paragraph (2) of subdivision (c) which have had to postpone secondary or lesser projects originally approved by the board in its February, 1984, listing: El Dorado, Fresno, Merced, Riverside, San Diego, Kings, and Kern. The board shall review these postponed projects at the time funding becomes available to ascertain that they still fit in with the needs of these counties and may make revisions commensurate with funding available at that time.

Any remaining funds available after funding of projects described in this subdivision shall be allocated to other county projects to be disbursed pursuant to rules and regulations established by the Board of Corrections to counties which made small

project applications under the County Jail Capital Expenditure Bond Act of 1981, to a total maximum amount not to exceed that provided in paragraph (3) of subdivision (d) and for counties' projects, up to the maximums specified in subdivision (d) under a system approved by the Board of Corrections.

(g) Within 60 days after this act becomes effective, the Department of Finance shall review the adequacy and appropriateness of the board's fiscal and contract regulations governing disbursement of funds and monitoring of projects once the projects are funded. These regulations address eligible cost issues, matching fund requirements, and contract management provisions. Following these consultations, the board shall determine whether changes in regulations or administrative policies may be necessary or desirable.

Counties shall have the right of appeal to the Department of Finance regarding the regulations promulgated pursuant to this subdivision or interpretations thereof. The department's authority in these appeals shall be limited to advisory recommendations, which shall be provided to the board and the county within 45 days after an appeal is submitted by the county to the department.

(h) The Board of Corrections shall provide funding at the earliest opportunity to Sacramento and other counties that are ready to proceed with construction.

(i) On March 31 of each year, the board shall provide to the Legislature a report on the status of funds expended, interest being earned, and other source possibilities, along with a complete listing of funds allocated to each county, any recommendations by the board on needed changes in the program, and any other matters pertinent to jail funding on which the board wishes to inform the Legislature.

SEC. 3. Section 3 of Senate Bill 1306 of the 1983–84 Regular Session is amended to read:

Sec. 3. The sum of twenty-one million eight hundred sixty-eight thousand dollars ($21,868,000) is hereby appropriated from the Special Account for Capital Outlay to the Department of Corrections for the renovation of San Quentin State Prison, to be allocated as follows:

I. Capital outlay		10,193,000
(a) Fireproof metal storage lockers	244,000	
(1) South, East and North Blocks: 1,803 cells preliminary plans, working drawings and construction	184,000	
(2) West Block 700 cell preliminary plans, working		

drawings and construction	60,000	
(b) Smoke detection and smoke removal systems		950,000
(1) South and West Blocks: preliminary plans, working drawings and construction	300,000	
(2) North, South and East Blocks: preliminary plans, working drawings and construction	650,000	
(c) Back flow prevention: preliminary plans, working drawings and construction		94,000
(d) Electrical renovation		4,700,000
(1) 700 cells in West and South Blocks: preliminary plans, working drawings and construction	800,000	
(2) 1,803 cells in East, North and South Blocks: preliminary plans, working drawings and construction	3,900,000	
(e) Renewal of plumbing and system fixtures		4,205,000
(1) East, North, and South Blocks: preliminary plans, working drawings and construction	3,360,000	
(2) Segregation North, West Block: preliminary plans, working drawings and construction	845,000	
II. Special repairs: reroofing buildings, structural and mechanical repairs, heating system repair and relocation, steam distribution and condensate return repair replacement, and window and screen rebuilding and installation		11,675,000

SEC. 4. Section 3 of this act shall become operative only if this

bill and Senate Bill 1306 of the 1983–84 Regular Session are both enacted and this bill is enacted last.

SEC. 5. The Legislature finds that the problem of jail overcrowding in Sacramento County is particularly acute, that the implementation of the first priority project approved by the Board of Corrections in its allocation of February 16, 1984, will properly address the problem, that Sacramento County is ready to proceed with the project, and that further delays will cause extreme hardship. It is the intent of the Legislature in enacting Section 6 of this act to assure the immediate availability of funds for that purpose. The allocation authorized for Sacramento County under subdivision (c) of Section 3 of Chapter 444 of the Statutes of 1984, as amended by this act, shall be reduced by the amount disbursed to Sacramento County under Section 6 of this act.

SEC. 6. Item 5430-101-725 of the Budget Act of 1984 is amended to read:

5430-101-725—For local assistance, Board of Corrections, Program 11—Standards for Detention Facilities payable from the County Jail Capital Expenditure Fund 252,310,662

1. Except as provided in provision 2, no funds appropriated by this item shall be allocated by the Board of Corrections from the County Jail Capital Expenditure Fund for any county jail construction unless AB 2357 and AB 3805 of the 1983–84 Regular Session are both chaptered.
2. $62,025,000 of the amount appropriated by this item is appropriated for county jail construction for Sacramento County for construction of the first priority project approved by the Board of Corrections in its allocation of February 16, 1984, pursuant to the County Jail Capital Expenditure Bond Act of 1981.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately provide for the proper allocation of funds under the County Jail Capital Expenditure Bond Acts and to implement at the earliest possible time the changes made by this act relating to the planning and construction of new prisons, it is necessary for this act to take effect immediately.

CHAPTER 1134

An act to add Sections 9051.5 and 9053.5 to the Government Code, relating to the legislative power.

[Approved by Governor September 14, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 9051.5 is added to the Government Code, to read:

9051.5. As used in this article, "bill or resolution" includes a constitutional amendment.

SEC. 2. Section 9053.5 is added to the Government Code, to read:

9053.5. (a) Every person who intentionally, maliciously, with knowledge of the falsity, and with intent to defame a particular legislator, publishes or causes to be published any writing which purports to be a facsimile of an actual bill or resolution, or any part thereof, of the California Legislature, which is not an exact copy of a bill or resolution, or part thereof, which has been introduced in the Legislature, is guilty of a misdemeanor.

(b) This section shall not apply to the print media, the electronic media, or to news services.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1135

An act to add Section 20135.1 to the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 20135.1 is added to the Government Code, to read:

20135.1. Retired members of the system, and beneficiaries who are entitled to receive allowances or benefits under the provisions of

this part, may authorize deductions to be made from their retirement allowance payments or from the allowances and benefits, respectively, or from either or both where both are being received in accordance with regulations established by the board for the payment of charitable contributions under any plan approved by the board. In lieu of approving individual plans, the board, at its discretion, may adopt by reference those plans approved by the State Board of Control under Section 13923. The board shall determine the additional cost involved in making deductions under this section and the agency to receive the contributions shall pay the amount of the additional cost to the board for deposit in the retirement fund.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

There exists urgent needs for human health and welfare services that are not fully met through government agencies and resources. Immediate implementation of this act is considered to be in the public interest in that it will serve to lessen the burdens of government by fostering the immediate efforts of charitable health and welfare agencies to help meet such needs.

CHAPTER 1136

An act to add and repeal Section 7042.1 of the Business and Professions Code, and to add and repeal Section 316.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 7042.1 is added to the Business and Professions Code, to read:

7042.1. (a) Notwithstanding any other provisions of this chapter, gas, heat, or electrical corporations and their subsidiaries that are regulated as public utilities by the Public Utilities Commission shall not conduct work for which a contractor's license is required, except under any one or more of the following conditions:

(1) The work is performed upon the gas, heat, or electrical corporation's properties.

(2) The work is performed through a contract with a contractor or contractors licensed pursuant to this chapter or the work is performed for low-income citizens pursuant to a program authorized by order of the Public Utilities Commission.

(3) The work is undertaken by the gas, heat, or electrical corporation in furtherance of the generation, transmission, or

distribution of electricity, gas, or steam, whether within or without the service area of the corporation, provided that any such work performed within a structure and beyond a customer's utility meter is necessary to protect the public safety or to avoid interruption of service.

(4) The work is otherwise exempt from the provisions of this chapter.

(5) The work is performed to comply with programs or procedures ordered or authorized by the Public Utilities Commission not inconsistent with the objectives expressed in Chapter 984 of the Statutes of 1983.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Gas, heat, or electrical corporation properties" means properties which a gas, heat, or electrical corporation owns or leases, or over which it has been granted an easement for utility purposes, or facilities which a gas, heat, or electrical corporation owns or operates for utility purposes.

(2) "Subsidiaries" means subsidiaries of a gas, heat, or electrical corporation regulated as public utilities by the Public Utilities Commission which carry out activities solely for utility purposes.

(c) It is the intention of the Legislature in enacting this section that public utility regulations be clearly based on the principle that the energy conservation industry should be allowed to develop in a competitive manner, as declared in Chapter 984 of the Statutes of 1983.

(d) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. Section 316.5 is added to the Public Utilities Code, to read:

316.5. The commission shall report to the Legislature on or before June 30, 1986, on implementation of Section 7042.1 of the Business and Professions Code and the objectives expressed in Chapter 984 of the Statutes of 1983, on policies, procedures, and regulations adopted or implemented by the commission to ensure and promote competition in the energy conservation industry.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

CHAPTER 1137

An act to amend Sections 4657 and 4658 of, and to add Section 4659 to, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 4657 of the Welfare and Institutions Code is amended to read:

4657. The State Department of Developmental Services shall, through the regional center contract, insure that the following information is collected by each regional center for each new case and is also collected at each review of all regional center clients in out-of-home placement.

Information shall include:

(a) The social security number of the parents of the client.

(b) The birthday of the parents of the client.

(c) The disability status of the parents of the client.

(d) Whether the parents of the client are deceased or not.

SEC. 2. Section 4658 of the Welfare and Institutions Code is amended to read:

4658. The State Department of Developmental Services shall insure that all potentially eligible clients are referred to the Social Security Administration for eligibility determination for Old Age Survivors Disability Insurance (OASDI).

SEC. 3. Section 4659 is added to the Welfare and Institutions Code, to read:

4659. (a) Except as otherwise provided in subdivision (c) or (d), the regional center shall identify and pursue all possible sources of funding for clients receiving regional center services. These sources shall include, but not be limited to, both of the following:

(1) Governmental or other entities or programs required to provide or pay the cost of providing services, including Medi-Cal, Medicare, the Civilian Health and Medical Program for Uniform Services, school districts, and federal supplemental security income and the state supplementary program.

(2) Private entities, to the maximum extent they are liable for the cost of services, aid, insurance, or medical assistance to the client.

(b) Any revenues collected by a regional center pursuant to this section shall be applied against the cost of services prior to use of regional center funds for those services. This revenue shall not result in a reduction in the regional center's purchase of services budget, except as it relates to federal supplemental security income and the state supplementary program.

(c) This section shall not be construed to impose any additional liability on the parents of developmentally disabled children, or to restrict eligibility for, or deny services to, any individual who qualifies for regional center services but is unable to pay.

CHAPTER 1138

An act to amend Sections 6308, 6318, 6319, and 6602 of, and to add Sections 6600.5 and 6601.5 to, the Labor Code, relating to occupational safety and health.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 6308 of the Labor Code is amended to read:

6308. The division, in enforcing occupational safety and health standards and orders and special orders may do any of the following:

(a) Declare and prescribe what safety devices, safeguards, or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.

(b) Enforce Section 25910 of the Health and Safety Code and standards and orders adopted by the standards board pursuant to Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, for the installation, use, maintenance, and operation of reasonable uniform safety devices, safeguards, and other means or methods of protection, which are necessary to carry out all laws and lawful standards or special orders relative to the protection of the life and safety of employees in employments and places of employment.

(c) Require the performance of any other act which the protection of the life and safety of the employees in employments and places of employment reasonably demands.

An employer may request a hearing on a special order or action ordered pursuant to this section, at which the employer, owner, or any other person may appear. The appeals board shall conduct the hearing at the earliest possible time.

All orders, rules, regulations, findings, and decisions of the division made or entered under this part, except special orders and action orders, may be reviewed by the Supreme Court and the courts of appeal as may be provided by law.

SEC. 2. Section 6318 of the Labor Code is amended to read:

6318. Each citation issued under Section 6317, and each special order or action ordered pursuant to Section 6308, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, at or near each place a violation referred to in the citation or order occurred. All postings shall be maintained for three days or until the unsafe condition is abated, whichever is longer.

SEC. 2.5. Section 6318 of the Labor Code is amended to read:

6318. Each citation issued under Section 6317, and each special order or action ordered pursuant to Section 6308, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations

issued by the director, at or near each place a violation referred to in the citation or order occurred. All postings shall be maintained for three days or until the unsafe condition is abated, whichever is longer. Following each investigation of an industrial accident or occupational illness, if no violations are found, the employer shall post a notice prepared by the division so indicating for three days.

SEC. 3. Section 6319 of the Labor Code is amended to read:

6319. (a) If, after an inspection or investigation, the division issues a citation pursuant to Section 6317 or an order pursuant to Section 6308, it shall, within a reasonable time after the termination of the inspection or investigation, notify the employer by certified mail of the citation or order, and that the employer has 15 working days from receipt of the notice within which to notify the appeals board that he or she wishes to contest the citation or order for any reason set forth in Section 6600 or 6600.5.

(b) Any employer served by certified mail with a notice of civil penalty may appeal to the appeals board within 15 working days from receipt of that notice for any reason set forth in Section 6600. If the citation is issued for a violation involving the condition or operation of any machine, device, apparatus, or equipment, and a person other than the employer is obligated to the employer to repair the machine, device, apparatus, or equipment and to pay any penalties assessed against the employer, the other person may appeal to the appeals board within 15 working days of the receipt of the citation by the employer for any reasons set forth in Section 6600.

(c) The director shall promulgate regulations covering the assessment of civil penalties under this chapter which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The size of the business of the employer being charged.

(2) The gravity of the violation.

(3) The good faith of the employer.

(4) The history of previous violations.

(d) The employer shall not be liable for a civil penalty under this part for any citation issued by a division representative providing consulting services pursuant to Sections 6354 and 6355.

SEC. 4. Section 6600.5 is added to the Labor Code, to read:

6600.5. Any employer served with a special order or any action order by the division pursuant to Section 6308, or any other person obligated to the employer as specified in subdivision (b) of Section 6319, may appeal to the appeals board within 15 working days from the receipt of the order with respect to the action ordered by the division, abatement periods, the reasonableness of the changes required by the division to abate the condition.

SEC. 5. Section 6601.5 is added to the Labor Code, to read:

6601.5. If, within 15 working days from receipt of a special order, or action order by the division, the employer fails to notify the appeals board that he or she intends to contest the order, and no notice contesting the abatement period is filed by any employee or

representative of the employee within that time, the order shall be deemed a final order of the appeals board and not subject to review by any court or agency. The 15-day period may be extended by the appeals board for good cause.

SEC. 6. Section 6602 of the Labor Code is amended to read:

6602. If an employer notifies the appeals board that he or she intends to contest a citation issued under Section 6317, or notice of proposed penalty issued under Section 6319, or order issued under Section 6308, or if, within 15 working days of the issuance of a citation or order any employee or representative of an employee files a notice with the division or appeals board alleging that the period of time fixed in the citation or order for the abatement of the violation is unreasonable, the appeals board shall afford an opportunity for a hearing. The appeals board shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the division's citation, order, or proposed penalty, or directing other appropriate relief.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 6318 of the Labor Code proposed by both this bill and SB 1792. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 6318 of the Labor Code, and (3) this bill is enacted after SB 1792, in which case Section 2 of this bill shall not become operative.

CHAPTER 1139

An act to add Section 227 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984]

The people of the State of California do enact as follows:

SECTION 1. Section 227 is added to the Streets and Highways Code, to read:

227. (a) Unless prohibited by federal law or regulation, the department, to promote public safety and convenience, may construct, operate, and maintain a maximum of six new safety roadside rest area units as a joint economic development demonstration project where there is a public need for a rest area, and the joint economic development proposal will result in an economic savings to the state.

(b) All of the following apply to the demonstration project safety roadside rest area units:

(1) Contracts for construction, operation, and maintenance of facilities in the demonstration project roadside rest areas shall be awarded on the basis of competitive bidding.

(2) The department may permit commercial operations within the units if the operations are traveler-related activities and no alcoholic beverages are sold within the rest area facility.

(3) Law enforcement responsibilities within the units are the same as are currently provided on the state highway system.

(4) The department shall submit a status report to the Assembly Committee on Transportation and the Senate Committee on Transportation one year following construction of the initial unit and annually thereafter.

(5) The department holds, or affords the opportunity for, a public hearing for each proposed unit so that local community members who may be affected by rest area economic development and other interested parties may comment on the proposed project.

(c) Any money received by the state for the demonstration project shall be deposited by the department in the State Highway Account.

CHAPTER 1140

An act to amend Sections 14041 and 14082 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 14041 of the Welfare and Institutions Code is amended to read:

14041. (a) The director shall develop and implement standards for the timely processing and payment of each claim type. The standards shall be sufficient to meet minimal federal requirements for the timely processing of claims.

(b) Notwithstanding any other provision of law, inpatient and outpatient hospital claims under the direct control of the fiscal intermediary which do not have errors and are not subject to medical review shall be adjudicated within 30 days of receipt by the fiscal intermediary contractor.

(c) It is the intent of the Legislature that claim forms for use by physicians and hospitals be the same as claim forms in general use by other payors, including Medicare, to the extent compatible with the following:

(1) Requirements for maximum federal matching funds.

(2) The reasonable needs of the mechanized claims processing system.

(3) Maximum billing efficiency.

(4) The convenience of providers.

SEC. 2. Section 14082 of the Welfare and Institutions Code is

amended to read:

14082. Notwithstanding any other provision of law, the Governor shall designate a person in his office to act as a special negotiator to negotiate rates, terms, and conditions for contracts with hospitals for inpatient services to be rendered to Medi-Cal program beneficiaries. The negotiator may also, if he or she deems it expedient, call for bids, in lieu of negotiations. The special negotiator shall consider, when contracting, the total funds appropriated for inpatient hospital services.

The department and every other state agency concerned with health care or public social services shall provide such assistance as the negotiator may require. The department shall enter into contracts with hospitals and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

The negotiator shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, except, that he or she shall adopt only such rules and regulations pursuant to Section 11152 of the Government Code as are necessary to carry out those duties specifically conferred upon the negotiator by Articles 2.6, 2.8, and 2.91 of this chapter.

The negotiator shall adopt such regulations as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted in accordance with this section shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

In addition to the powers specified in this section, the negotiator has the authority to negotiate contracts under Article 2.8 (commencing with Section 14087.5) and Article 2.91 (commencing with Section 14089) of this chapter.

Nothing in this article or the Budget Act of 1984 prohibits the negotiator from adjusting rates paid to hospitals to reflect inflation, provided that such adjustments are determined during the negotiating process.

The amendment of this section made at the 1983–84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 1141

An act to add Article 4 (commencing with Section 3550) to Chapter 2 of Division 4 of, and to repeal Sections 3713 and 3714 of, the Labor Code, relating to workers' compensation.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 3550) is added to Chapter 2 of Division 4 of the Labor Code, to read:

Article 4. Employee Notice

3550. (a) Every employer subject to the compensation provisions of this division shall post and keep posted in a conspicuous location frequented by employees, and where the notice may be easily read by employees during the hours of the workday, a notice which shall state the name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.

(b) Failure to keep any notice required by this section conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

(c) This section shall not apply with respect to the employment of employees as defined in subdivision (d) of Section 3351.

(d) The notice required by this section need not be in any particular form, but shall be in writing and shall include, in nontechnical language, advice as to the injured employee's right to receive medical care, to select or change the treating physician pursuant to the provisions of Section 4600, and the right to receive temporary disability indemnity, permanent disability indemnity, vocational rehabilitation services, and death benefits, as appropriate.

(e) Failure of an employer to provide the notice required by this section shall automatically permit the employee to be treated by his or her personal physician with respect to an injury occurring during that failure.

3551. Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of the first pay period, written notice of the information contained in Section 3550.

3552. Upon the request of an employee, an employer shall provide the employee with an appropriate form on which the employee may indicate the name of his or her "personal physician," as defined by Section 4600.

SEC. 2. Section 3713 of the Labor Code is repealed.

SEC. 3. Section 3714 of the Labor Code is repealed.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1142

An act to amend Section 23195 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 23195 of the Vehicle Code is amended to read:

23195. (a) Except as provided in subdivision (b), the interest of any registered owner of a motor vehicle which has been used in the commission of a violation of Section 23152 or 23153 for which the owner was convicted, is subject to impoundment as provided in this section. Upon conviction the court may order the vehicle impounded at the registered owner's expense for not less than one nor more than 30 days.

If the offense occurred within five years of a prior offense which resulted in conviction of a violation of Section 23152 or 23153, the prior conviction shall also be charged in the accusatory pleading and if admitted or found to be true by the jury upon a jury trial or by the court upon a court trial, the court shall, except in an unusual case where the interests of justice would best be served by not ordering impoundment, order the vehicle impounded at the registered owner's expense for not less than one nor more than 30 days.

If the offense occurred within five years of two or more prior offenses which resulted in convictions of violations of Section 23152 or 23153, the prior convictions shall also be charged in the accusatory pleading and if admitted or found to be true by the jury upon a jury trial or by the court upon a court trial, the court shall, except in an unusual case where the interests of justice would best be served by not ordering impoundment, order the vehicle impounded at the

registered owner's expense for not less than one nor more than 90 days.

For purposes of this section the court may consider in the interests of justice factors such as whether impoundment of the vehicle would result in a loss of employment of the offender or the offender's family, impair the ability of the offender or the offender's family to attend school or obtain medical care, result in the loss of the vehicle because of inability to pay impoundment fees, or unfairly infringe upon community property rights or any other facts the court finds relevant. When no impoundment is ordered in an unusual case pursuant to this section, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) No vehicle which may be lawfully driven on the highway with a class 3 or class 4 driver's license, as specified in Section 12804, is subject to impoundment under this section if there is a community property interest in the vehicle owned by a person other than the defendant and the vehicle is the sole vehicle available to the defendant's immediate family which may be operated on the highway with a class 3 or class 4 driver's license.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1143

An act to amend Section 1532 of, to add Sections 1790.7 and 1790.9 to, and to repeal Sections 306.6, 320.7, 1791, 1791.2, 1791.4, and 1791.6 of, the Health and Safety Code, and to amend Sections 10605, 10700, and 10703 of, and to add Section 10706 to, the Welfare and Institutions Code, relating to state advisory boards.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 306.6 of the Health and Safety Code is repealed.

SEC. 2. Section 320.7 of the Health and Safety Code is repealed.

SEC. 3. Section 1532 of the Health and Safety Code is amended to read:

1532. The Committee on Community Care Facilities of the State Social Services Advisory Board shall advise the director regarding regulations, policy, and administrative practices pertaining to

community care facilities. The committee shall review proposed regulations for community care facilities, and submit its written comments to the director prior to the adoption of these regulations.

The committee shall be solely advisory in character and shall not be delegated any administrative authority or responsibility. Committee members shall be selected from concerned interests, including representatives of professional associations, providers and employees of care and services, and consumers of community care facility services.

SEC. 4. Section 1790.7 is added to the Health and Safety Code, to read:

1790.7. The Committee on Life Care Contracts of the State Social Services Advisory Board shall act in an advisory capacity to the state department on matters relating to life care contracts. The committee shall make recommendations to the state department regarding needed changes in its rules and regulations and upon request provide advice regarding the correction of problems relating to the management or operation of any facility. The committee shall also perform any other advisory functions necessary to improve the management and operation of life care contracts.

The members of the committee shall include:

(a) Three representatives of providers of life care contracts pursuant to this chapter, each of whom shall have offered life care services for at least five years prior to appointment.

(b) A representative of the business community who has had at least five years of experience in the management of health care facilities.

(c) Two senior citizens who are not eligible for appointment pursuant to subdivisions (a) and (b) who shall represent consumers of life care services.

(d) A certified public accountant with experience in the community care industry.

In no event shall more than three of the seven members of this committee represent the interests of providers of life care contracts pursuant to this chapter.

Notwithstanding Section 10700 of the Welfare and Institutions Code, the Senate Rules Committee shall appoint one member pursuant to subdivision (c), and the Speaker of the Assembly shall appoint one member pursuant to subdivision (c).

SEC. 5. Section 1790.9 is added to the Health and Safety Code, to read:

1790.9. Notwithstanding Section 10700 of the Welfare and Institutions Code, the advisory committee shall:

(a) Review the financial and managerial condition of each facility operating under a certificate of authority.

(b) Review the financial condition of any facility that the board determines is indicating signs of financial difficulty and may be in need of close supervision.

(c) Monitor the condition of facilities at times and places as the

department or the chair of the committee may direct.

The committee may report on its recommendations directly to the director.

The committee may hold meetings, as deemed necessary to the performance of its duties.

SEC. 6. Section 1791 of the Health and Safety Code is repealed.

SEC. 7. Section 1791.2 of the Health and Safety Code is repealed.

SEC. 8. Section 1791.4 of the Health and Safety Code is repealed.

SEC. 9. Section 1791.6 of the Health and Safety Code is repealed.

SEC. 10. Section 10605 of the Welfare and Institutions Code is amended to read:

10605. If the director believes that a county is substantially failing to comply with any provision of this code or any regulation pertaining to any program administered by the department, and the director determines that formal action may be necessary to secure compliance, he or she shall inform the county welfare director and the board of supervisors of that failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations. If within the specified period the county does not comply or provide reasonable assurances in writing that it will comply within the additional time as the director may allow, the director may take one or both of the following actions:

(a) Bring an action for injunctive relief to secure immediate compliance.

Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction. The court may make orders or judgments as may be necessary to secure county compliance.

(b) Order the county to appear at a hearing before the director with the State Social Services Advisory Board Committee on Welfare and Social Services to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department.

If the director determines, based on the record established at the hearing and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services, that the county is failing to comply with the provisions of this code or the regulations of the department, or if the State Personnel Board certifies to the director that a county is not in conformity with established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the director may invoke either of the following sanctions:

(1) Withhold all or part of state and federal funds from the county until the county demonstrates to the director that it has complied.

(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in the county until the time as the county provides reasonable assurances to the director of its intention and ability to comply. During the period of direct state administrative responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the county director, except that he or she shall not be subject to the authority of the board of supervisors.

In the event that the director invokes sanctions pursuant to this section, the county shall be responsible for providing any funds as may be necessary for the continued operation of all programs administered by the department in the county. If a county fails or refuses to provide these funds, including a sufficient amount to reimburse any and all costs incurred by the department in directly administering any program in the county, the Controller may deduct an amount certified by the director as necessary for the continued operation of these programs by the department from any state or federal funds payable to the county for any purpose.

Nothing in this section shall be construed as preventing a county from seeking judicial review under Section 1094.5 of the Code of Civil Procedure of any final decision of the director made after a hearing conducted under this section. This review shall be the exclusive remedy available to the county for review of the director's decision.

Nothing in this section shall be construed as preventing the director from bringing an action for writ of mandamus or any other action in court as may be appropriate to insure that there is no interruption in the provision of benefits to any person eligible therefor under the provisions of this code or the regulations of the department.

SEC. 11. Section 10700 of the Welfare and Institutions Code is amended to read:

10700. The State Social Services Advisory Board consists of 28 members.

The members of the board shall be selected for their interest and leadership in programs within the jurisdiction of the department without regard to political or religious affiliations.

The board shall include at a minimum four committees. These committees shall advise in the four areas as specified below:

(a) Welfare and social services.

(b) Life care contracts.

(c) Community care facilities.

(d) Child abuse prevention.

Each of the four committees shall consist of seven members, five of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the Assembly, and one of whom shall be appointed by the Senate Rules Committee. All members shall be appointed based on their interest and expertise in the subject area.

The composition of the Committee on Life Care Contracts shall additionally conform to the provisions of Section 1790.7 of the Health and Safety Code.

The Governor shall designate the chairperson for each committee and the chairperson for the entire advisory board from his or her appointees to the board. All appointments of chairpersons shall be made with the advice and consent of the Senate.

All members shall serve at the pleasure of the appointing power. It shall be the duty of the appointing power to fill all vacancies on the board within 60 days.

The committees shall make recommendations to the advisory board, to the director, the Secretary of Health and Welfare, and the Governor.

SEC. 12. Section 10703 of the Welfare and Institutions Code is amended to read:

10703. The members of the board shall meet at such times as may be determined by resolution of the board. Special meetings may be called by the chairman, who shall be designated by the Governor. Members who fail to attend three consecutive regular meetings shall be deemed to have resigned from the board, but the board may for good cause grant leaves of absence to its members.

SEC. 13. Section 10706 is added to the Welfare and Institutions Code, to read:

10706. The Committee on Child Abuse of the State Social Services Advisory Board shall act as an advisory committee to the Office of Child Abuse Prevention established pursuant to Article 3 (commencing with Section 18952) of Chapter 11 of Part 6 concerning the performance of that office's duties and responsibilities, and to the department, the Health and Welfare Agency, and the Governor concerning the matter of child abuse.

CHAPTER 1144

An act to amend Section 18215.5 of, and to add Section 18300.5 to, the Health and Safety Code, relating to recreational vehicles.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 18215.5 of the Health and Safety Code is amended to read:

18215.5. "Recreational vehicle" is a motorhome, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:

(a) Contains less than 320 square feet of internal living area,

excluding built-in equipment including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(b) Contains 400 square feet or less of gross area measured at maximum horizontal projections.

(c) Is built on a single chassis.

(d) Is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

SEC. 2. Section 18300.5 is added to the Health and Safety Code, to read:

18300.5. (a) In any city, county, or city and county, which has adopted an ordinance imposing a time limitation for occupancy of spaces in recreational vehicle parks, any park owner may apply for an exemption to that limitation. Such an exemption shall be granted unless the city, county, or city and county, makes a substantial finding that based on, but not limited to, the lack of needed overnight or tourist spaces in those parks in the city, county, or city and county, that the exemption of the applicant's park from the time limitation would cause specific adverse impacts which cannot be mitigated or avoided by providing partial exemptions as set forth in subdivision (b) or by imposing conditions pursuant to subdivision (c).

(b) The requirements of subdivision (a) may be satisfied by partial exemption if either of the following apply:

(1) A number of spaces in a recreational vehicle park are set aside for short-term occupancy, and the remaining spaces are exempted by the city, county, or city and county, from the occupancy limitation.

(2) A city, county, or city and county, finds that by increasing the maximum length of stay to a specified additional period of time for the applicant, the problems raised by the applicant for an exemption are satisfied.

(c) As an alternative to granting a partial exemption pursuant to subdivision (a), in approving a request for an exemption from recreational vehicle park time limitations, a city, county, or city and county may:

(1) Impose conditions to assure there will be no adverse impact on local school districts due to the additional enrollment of residents of a recreational vehicle park.

(2) Assure that a recreational vehicle park is in compliance with the requirements of Subchapter 2 (commencing with Section 2000) of Chapter 2 of Part 1 of Title 25 of the California Administrative Code.

(d) If an exemption to a time limitation for occupancy of spaces in a recreational park is applied for pursuant to subdivision (a) and the recreational park for which the exemption is requested is located within the coastal zone, as defined in Section 30103 of the Public Resources Code, the exemption shall be granted, only, if in addition to meeting the requirements set forth in subdivision (a) the city, county, or city and county, finds that granting the exemption is

consistent with its certified local coastal program. If granting the exemption would be inconsistent with an approved or certified local coastal program, the applicant for the exemption may petition the appropriate city, county, or city and county, to seek an amendment to its certified local coastal program. If, after consultation with the California Coastal Commission, it is determined that an amendment to the certified local coastal program is required in order to grant the exemption, the city, county, or city and county, may request an amendment to the certified local program within 90 days of the applicant's filing of the petition. This request may be made without regard to the limitation on the number of the amendments that can be requested during any year, pursuant to Section 30514 of the Public Resources Code. The California Coastal Commission shall certify the amendment to the local coastal program unless it finds that the certification would not be consistent with Chapter 3 (commencing with Section 30200) of Division 20 of the Public Resources Code.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1145

An act to amend Section 14009 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 14, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 14009 of the Food and Agricultural Code is amended to read:

14009. (a) Except as provided in Section 11512.5, any interested person may request the commissioner to review his or her action in issuing, refusing, revoking, suspending, or conditioning a permit to use or possess a restricted material. The commissioner shall review the request and issue a written decision in response to the request to review within 10 days of receipt of the request, or as soon as practicable. The commissioner may affirm, modify, or cancel the

permit action reviewed. A directly affected person may thereafter appeal to the director to review the commissioner's action.

(b) The commissioner and director shall conduct each review in an expeditious manner so that needed pest control measures are not adversely affected.

(c) Each request for review shall be submitted in writing to the commissioner by the person requesting the review and shall include all of the following:

(1) The location of persons, property, or areas that would be affected and the location of property to be treated.

(2) The name of the restricted material involved.

(3) The name and address of the person in charge of the property to be treated, if different from the person filing the request for review.

(4) Any other information that the person filing the request for review or the commissioner determines to be relevant.

(d) In an appeal of a commissioner's action to the director, the issues are limited to any of the following:

(1) Whether the proposed permit use is consistent with applicable pesticide label restrictions and applicable regulations.

(2) Whether the commissioner properly considered the provisions of Section 14006.5.

(3) Whether the commissioner abused his or her discretion in issuing, refusing, revoking, or conditioning the permit.

(e) The director shall act on these appeals within 10 days of receipt thereof or as soon thereafter as is practicable. The director may stay the operation of a permit until his or her review is complete.

(f) (1) Prior to conducting a public review, the director shall notify directly affected persons at least 72 hours in advance of the location and time of the public review.

(2) Before acting on an appeal, the director shall, in a specified location open to the public, review the information provided to him or her as specified in this section if requested to do so in writing by any interested person.

(3) The director may request additional testimony or other evidence specified in this section at the public review from interested persons.

(g) Judicial review of any decision by the director pursuant to this section shall be pursuant to Section 1094.5 of the Code of Civil Procedure. Review shall be limited to whether the proposed permit use is consistent with applicable pesticide label restrictions and regulations and whether the director abused his or her discretion.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and

Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1146

An act to add Section 1823 to the Insurance Code, and to amend Section 1306 of the Penal Code, relating to bail.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1823 is added to the Insurance Code, to read:

1823. All surety companies which execute undertakings of bail shall keep any moneys collected from agents licensed pursuant to this code as buildup or reserve funds in segregated interest-bearing trust accounts within this state by an entity which is insured either by the FDIC or the FSLIC.

The interest-bearing trust accounts shall not be hypothecated or offered as collateral.

The moneys in the interest-bearing trust accounts shall be used to satisfy the unfulfilled obligations of the undertakings of bail written by the agents from whom the moneys have been collected and to otherwise satisfy the unfulfilled obligations which may be owing to the surety by such agents.

SEC. 2. Section 1306 of the Penal Code is amended to read:

1306. (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. In no event shall the judgment exceed the amount of the bond, with costs, and notwithstanding any other provision of law, no penalty assessments shall be levied or added to the judgment.

(b) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(c) A dismissal of the complaint, indictment or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(d) The district attorney or civil legal adviser of the board of supervisors shall:

(1) Demand immediate payment of the judgment within five

days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in such cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure.

(e) The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.

CHAPTER 1147

An act to add and repeal Section 73362.1 of the Government Code, relating to courts.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 73362.1 is added to the Government Code, to read:

73362.1. (a) Upon the adoption of a resolution by the board of supervisors finding that there are sufficient funds available in the budget for a particular municipal court district and acknowledging that the judges of that district have determined the business of the court requires such occasional service, there shall be one position of temporary court commissioner to serve that municipal court district.

(b) A temporary court commissioner shall be appointed by the presiding judge of the court from a list of temporary court commissioners established and approved by a majority of the judges of that court. The temporary commissioner shall possess the same qualifications the law requires of a municipal court judge, and shall not engage in the private practice of law before any court of the municipal court district to which he or she is appointed, and is subject to disqualification as provided for judges.

(c) A temporary court commissioner shall receive, as sole compensation for such service, an hourly fee for each hour or fraction of an hour of service which is equivalent of the hourly wage of the first step in the salary range for full-time official municipal court commissioners in Contra Costa County, without any other benefit included in the compensation of any other municipal court officer or employee in Contra Costa County.

(d) A temporary court commissioner shall perform those functions conferred by law and assigned by the presiding judge.

Before any action or proceeding is tried or heard by a temporary court commissioner, any party to, or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by oral or written motion without notice, that the action or proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a judge, court commissioner, or referee of the court. The court shall, prior to the commencement of any such trial or hearing, provide notice to each party or attorney of record in the action or proceeding of this entitlement to require reassignment or transfer.

(e) This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute which is chaptered before that date, deletes or extends such date.

(f) The clerk of every court to which a temporary court commissioner is appointed shall report any complaints regarding the use of the temporary commissioner to the Judicial Council, and the Judicial Council shall report to the Legislature on or before January 1, 1987, as to whether it has received any evidence that the part-time nature of the employment of temporary commissioners has affected their acceptance by lawyers and litigants.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1148

An act to add Section 217.5 to the Fish and Game Code, relating to fishing.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 217.5 is added to the Fish and Game Code, to read:

217.5. (a) The department shall identify property it owns or manages that includes areas for sport fishing which are accessible to disabled persons.

(b) Commencing with the booklet of sport fishing regulations published by the commission in 1986, the availability of sport fishing areas, identified by the department as accessible to disabled persons under subdivision (a), shall be noted in the booklet of regulations, together with telephone numbers and instructions for obtaining a list of those areas from regional department offices.

CHAPTER 1149

An act to amend Sections 2089, 2914, 4980.41, and 9042 of, and to add Sections 2091.1 and 2736.1 to, the Business and Professions Code, relating to licensing.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature that the Board of Behavioral Science Examiners, when granting licenses to marriage, family, and child counselors and to licensed clinical social workers, ensure that a minimum level of competence has been acquired during matriculation by the licensees in the subject of alcoholism and other chemical substance dependency.

(b) It is the intent of the Legislature that the three licensing boards for the professions of medicine, psychology, and registered nursing also ensure that during matriculation adequate instruction has been received by licensees of the boards in the subjects of alcoholism and chemical substance dependency.

SEC. 2. Section 2089 of the Business and Professions Code is amended to read:

2089. (a) Each applicant for a physician's and surgeon's certificate shall show by official transcript or other official evidence satisfactory to the Division of Licensing that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a medical school or schools located in the United States or Canada approved by the division. The total number of hours of all courses shall consist of a minimum of 4,000 hours. At least 80 percent of actual attendance shall be required.

(b) The curriculum for all applicants shall provide for adequate instruction in the following:

Alcoholism and other chemical substance dependency, detection and treatment.

Anatomy, including embryology, histology, and neuroanatomy.

Anesthesia.

Biochemistry.

Child abuse detection and treatment.

Dermatology.

Geriatric medicine.

Human sexuality.

Medicine, including pediatrics.

Neurology.

Obstetrics and gynecology.

Ophthalmology.

Otolaryngology.

Pathology, bacteriology, and immunology.
Pharmacology.
Physical medicine.
Physiology.
Preventive medicine, including nutrition.
Psychiatry.
Radiology, including radiation safety.
Surgery, including orthopedic surgery.
Therapeutics.
Tropical medicine.
Urology.

SEC. 3. Section 2091.1 is added to the Business and Professions Code, to read:

2091.1. The requirement that instruction in alcoholism and other chemical substance dependency be provided applies only to applicants who matriculate on or after September 1, 1985.

SEC. 4. Section 2736.1 is added to the Business and Professions Code, to read:

2736.1. The course of instruction for an applicant who matriculates on or after September 1, 1985, shall include training in the detection and treatment of alcohol and chemical substance dependency.

SEC. 5. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in education psychology, (3) in education with the field of specialization in counseling psychology or educational psychology, or (4) possess an earned doctorate degree deemed equivalent by the committee in regulations duly adopted under this chapter. This degree or training shall be obtained from an accredited or approved university, college, professional school, or any other educational institution approved by the committee as offering a comparable program in regulations duly adopted under this chapter.

No educational institution shall be denied recognition as an accredited or approved academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the committee by educational institutions of their departments of psychology or their doctoral programs in psychology.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the committee in its regulations, or such suitable alternative supervision as determined by the committee in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate

in psychology.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the committee under the provisions of this chapter.

(e) Show by evidence satisfactory to the committee that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

SEC. 6. Section 4980.41 of the Business and Professions Code is amended to read:

4980.41. (a) Except for persons who have started full-time or continuous graduate study prior to September 1, 1978, a master's or doctor's degree as specified in subdivision (a) of Section 4980.40 shall include specific instruction in assessment, diagnosis, prognosis, and counseling and psychotherapeutic treatment of premarital, marriage, family, and child relationship dysfunctions.

(b) Except for persons who have started full-time or continuous graduate study prior to January 1, 1986, a master's or doctor's degree as specified in subdivision (a) of Section 4980.40 shall include specific instruction in alcoholism and other chemical substance dependency.

SEC. 7. Section 9042 of the Business and Professions Code is amended to read:

9042. Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of full-time post-masters' experience, acceptable to the board, in the use of psychosocial and psychotherapeutic methods and measures in a hospital, clinic, or agency. One year of such experience shall have been in a hospital, clinic, or agency in which the applicant, under professional supervision or with professional consultation or both, has employed such methods or measures. The board may establish standards for equivalent means of meeting the requirements of this subdivision. Such standards shall insure that the performance of services authorized by Section 9047 by persons complying with such standards shall be done in a manner which protects the health and welfare of the persons receiving such services.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency.

CHAPTER 1150

An act to add Sections 4980.43 and 4980.45 to the Business and Professions Code, relating to marriage, family, and child counselors.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 4980.43 is added to the Business and Professions Code, to read:

4980.43. Experience as specified in subdivision (c) of Section 4980.40 may be gained as an intern or trainee under the direct supervision of a licensed marriage, family, and child counselor or professional corporation, a licensed clinical social worker or professional corporation, a licensed psychologist or professional corporation, a licensed physician certified in psychiatry or a professional corporation, or a medical clinic, medical hospital, governmental agency, school, or nonprofit agency providing the supervision as required by this chapter, provided that such experience is gained solely under the supervision or organization by which he or she is employed and that such functions are performed solely as part of the position for which he or she is employed.

SEC. 2. Section 4980.45 is added to the Business and Professions Code, to read:

4980.45. (a) A licensed professional in private practice who is a marriage, family, and child counselor, a psychologist, a clinical social worker, or a physician certified in psychiatry may supervise or employ, at any one time, no more than two unlicensed marriage, family, and child counselor interns.

(b) A licensed professional in a private practice who is a marriage, family, and child counselor, psychologist, clinical social worker, or physician certified in psychiatry shall, within 30 days of the employment or termination of employment of an intern, notify the board of the employment or termination of employment of the intern. Such notice shall include the name of the intern.

CHAPTER 1151

An act to amend Sections 10600 and 10601 of the Education Code, relating to education.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 10600 of the Education Code is amended to read:

10600. (a) It is the intent of the Legislature in enacting this chapter to make complete, current, and reliable information relating to education available to the Legislature and to all public educational agencies in California at maximum efficiency and economy through statewide compatibility in the development and application of information systems and electronic data-processing techniques insofar as they relate to data required in reports to the State Department of Education.

(b) It is the further intent of the Legislature to recognize the importance and enhance the stature of the education profession throughout the state. The Legislature finds and declares that according to recent studies, there is a shortage of qualified teachers, particularly in the areas of math and science, throughout California. The Legislature also finds that it must continue to support ways in which individuals will be attracted to the teaching profession, in order that California may remain competitive with other states. The Legislature recognizes that the teacher shortage could be ameliorated through the availability of more extensive information concerning the teaching profession. This vital goal may be accomplished by establishing in the State Department of Education a comprehensive state education data information system for compiling data on the teacher shortage.

SEC. 2. Section 10601 of the Education Code is amended to read:

10601. (a) There has been developed by the State Department of Education the California Education Information System, hereinafter in this chapter called "the system." The function of the system is to establish, conduct, and by continuous concern keep up to date a basic, integrated, statewide information system for education.

(b) The system shall include all of the following information for the purposes of this chapter, and particularly to carry out the legislative intent expressed in subdivision (b) of Section 10600, and shall be subject to the appropriation of funds for the operation of the system in the Budget Act for each fiscal year:

(1) Age profile of teachers in the workforce.

(2) Projections on the number of retirees in the education system over the next 10 years throughout the state.

(3) Identification of subject matter fields which have the severest shortage of teachers.

(4) Geographical distribution of teachers by credential type.

(5) Present patterns of in-service education for teachers.

(c) The Commission on Teacher Credentialing shall participate in the system by providing available data regarding enrollment in credential programs, credentials issued in each specialization, and certificated persons in each specialty who are not employed in

education, and by collaborating with the State Department of Education in the design and preparation of periodic reports of teacher supply and demand in each specialty and region of the state.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1152

An act relating to the California State University.

[Approved by Governor September 14, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. The Director of General Services, with the approval of the Chancellor of the California State University, is hereby authorized to exchange upon those terms and conditions, and with those reservations and exceptions, which in his or her opinion may be in the best interest of the state, all or any part of approximately 9.4 acres of vacant land located adjacent to Interstate 5 at Lassen Lane near the City of Mt. Shasta, County of Siskiyou.

SEC. 2. As to any property exchanged pursuant to this act, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry.

CHAPTER 1153

An act to repeal and add Sections 70141.9, 74134, 74135, 74136, 74137, 74138, 74141, and 74143 of the Government Code, relating to courts.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 70141.9 of the Government Code is repealed.

SEC. 2. Section 70141.9 is added to the Government Code, to read:

70141.9. In any county with a population exceeding 700,000 and not exceeding 800,000 as determined by the 1980 federal census, the superior court, subject to prior approval by the board of supervisors, may appoint four commissioners. The superior court may provide that the commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897. The superior court may also authorize the commissioners to perform the duties of a juvenile court referee appointed pursuant to Section 247 of the Welfare and Institutions Code. Any commissioner authorized to perform the duties set forth above shall receive a salary equal to 75, 80, or 85 percent of the salary of a judge of the superior court. The court shall determine the level of the salary to be received by a court commissioner, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court. The salary shall be adjusted by the court at the time and in the manner specified in Section 68203. Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

SEC. 3. Section 74134 of the Government Code is repealed.

SEC. 4. Section 74134 is added to the Government Code, to read:

74134. In the Riverside Judicial District, the salary of the clerk/administrator shall be in range 291, and the clerk may appoint:

(a) One assistant clerk on range 237.

(b) Twenty-four municipal court clerks on range 123.

(c) One accounting technician on range 164.

(d) One accounting clerk on range 103.

(e) One municipal court branch manager on range 199.

(f) Three municipal court division supervisors on range 183.

(g) Seven municipal courtroom clerks on range 172.

(h) Three own recognizance officers on range 190.

(i) One senior accounting clerk on range 134.

(j) Three senior municipal court clerks on range 144.

(k) One senior stenographer clerk on range 139.

(*l*) One supervising own recognizance officer on range 221.

SEC. 5. Section 74135 of the Government Code is repealed.

SEC. 6. Section 74135 is added to the Government Code, to read:

74135. In the Riverside Judicial District, the salary of the marshal shall be forty-four thousand four hundred fifty-six dollars and seventeen cents ($44,456.17) per year, and the marshal may appoint:

(a) One assistant marshal on range 293.

(b) Four deputy marshals II on range 225.

(c) Nine deputy marshals I on range 194.
(d) One marshal's sergeant on range 256.
(e) Four investigative assistants on range 131.
(f) One marshal's lieutenant on range 276.
(g) One senior accounting clerk on range 134.
(h) Five typist-clerks II on range 93.
(i) One secretary I on range 154.
(j) Fifty special deputy marshals as are needed, who shall be custodians at the fee allowed by law for keeping property taken under legal process and shall be paid out of the funds deposited by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 7. Section 74136 of the Government Code is repealed.

SEC. 8. Section 74136 is added to the Government Code, to read:

74136. In the Desert Judicial District, the salary of the clerk/administrator - Desert Judicial District shall be on range 291, and the clerk may appoint:
(a) One assistant clerk/administrator on range 237.
(b) Three municipal court branch managers on range 199.
(c) Two municipal court division supervisors on range 183.
(d) One accounting technician on range 164.
(e) Fifteen municipal court clerks on range 123.
(f) One court reporter at one thousand two hundred twenty-two dollars and forty cents ($1,222.40) biweekly.
(g) Six municipal courtroom clerks on range 172.
(h) One senior accounting clerk on range 134.
(i) Seven senior municipal court clerks on range 144.
(j) One senior own recognizance officer on range 205.
(k) Two data terminal operators I on range 82.
(*l*) Two data terminal operators II on range 103.
(m) Two typist clerks II on range 93.

SEC. 9. Section 74137 of the Government Code is repealed.

SEC. 10. Section 74137 is added to the Government Code, to read:

74137. In the Desert Judicial District, the salary of the marshal shall be forty-four thousand four hundred fifty-six dollars and seventeen cents ($44,456.17) per year, and the marshal may appoint:
(a) One assistant marshal on range 293.
(b) Ten deputy marshals II on range 225.
(c) Six deputy marshals I on range 194.
(d) One marshal's sergeant on range 256.
(e) One marshal's lieutenant on range 276.
(f) One senior accountant clerk on range 134.
(g) Five typist clerks II on range 93.
(h) One accounting clerk on range 103.
(i) Thirty special deputy marshals, as are needed, who shall be custodians at the fee allowed by law for keeping property taken under legal process and who shall be paid out of the funds deposited

by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 11. Section 74138 of the Government Code is repealed.

SEC. 12. Section 74138 is added to the Government Code, to read:

74138. In the Corona Judicial District, the salary of the clerk - Corona Judicial District shall be on range 234, and the clerk may appoint:

(a) One municipal court branch manager on range 199.
(b) Two municipal court division supervisors on range 183.
(c) Two municipal courtroom clerks on range 172.
(d) Four municipal court clerks on range 123.
(e) One senior accounting clerk on range 134.
(f) One typist clerk II on range 65.

SEC. 13. Section 74141 of the Government Code is repealed.

SEC. 14. Section 74141 is added to the Government Code, to read:

74141. In the Mt. San Jacinto Judicial District, the salary of the clerk - Mt. San Jacinto Judicial District shall be on range 244, and the clerk may appoint:

(a) One traffic referee-assistant clerk on range 246.
(b) Two municipal court branch managers on range 199.
(c) One municipal court division supervisor on range 183.
(d) Two municipal courtroom clerks on range 172.
(e) Three senior municipal court clerks on range 144.
(f) One senior accounting clerk on range 134.
(g) Twelve municipal court clerks on range 123.
(h) One bail clerk on range 118.
(i) Two accounting clerks on range 103.
(j) One typist clerk II on range 93.

SEC. 15. Section 74143 of the Government Code is repealed.

SEC. 16. Section 74143 is added to the Government Code, to read:

74143. In the Three Lakes Judicial District, the salary of the clerk shall be on range 234, and the clerk may appoint:

(a) One municipal court branch manager on salary range 199.
(b) Two municipal court division supervisors on range 183.
(c) One municipal courtroom clerk on range 172.
(d) One senior municipal court clerk on range 144.
(e) One senior accounting clerk on range 134.
(f) Seven municipal court clerks on range 123.
(g) One typist clerk II on range 93.

SEC. 17. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1154

An act to amend Section 4590 of the Government Code, relating to rural areas, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 4590 of the Government Code is amended to read:

4590. Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract, provided that until January 1, 1987, substitution of securities provisions shall not be required in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Section 1921 et seq.), and where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

Securities eligible for investment under this section shall include those listed in Section 16430 or bank or savings and loan certificates of deposit.

The contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Failure to include these provisions in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

For purposes of this section, the term "public agency" shall include, but shall not be limited to, chartered cities.

The Legislature hereby declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors in public contract procedures.

This chapter shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 2. Any contract which is entered into on or after July 1, 1984, and prior to the effective date of the amendments to Section 4590 of the Government Code made by SB 2014 of the 1983–84 Regular Session, which does not contain provisions permitting the

substitution of securities and for which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture, shall be deemed to be legally effective, notwithstanding any provision to the contrary in Section 4590 of the Government Code or in any other provision of law, and any such contract is hereby confirmed, validated, and declared legally effective. This section is limited to the validation of contract provisions to the extent to which validation can be effectuated under the California and the United States Constitutions.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act extends a provision of existing law which would otherwise expire on July 1, 1984. That provision facilitates the execution of contracts including financing by the federal Farmers Home Administration, and these contracts are critical to the economic development and health and safety of significant rural areas of California.

CHAPTER 1155

An act relating to surplus state real property.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. At the request of any state agency having surplus real property located outside the Tahoe Basin, the Director of General Services may exchange any of that property on such terms and conditions as the director deems to be in the best interest of the state for privately owned real property of comparable market value which is located within the Tahoe Basin.

At least 30 days prior to entering into any agreement to exchange properties pursuant to this act, the Director of General Services shall provide written notification thereof, including a general description of the properties and the terms of the agreement, to the chairperson of the committee in each house of the Legislature which considers appropriations and the Chairperson of the Joint Legislative Budget Committee.

CHAPTER 1156

An act to amend and repeal Sections 27361 and 27361.3 of the Government Code, relating to recording fees.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 27361 of the Government Code is amended to read:

27361. The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is as follows: four dollars ($4) for recording the first page and two dollars ($2) for each additional page or fraction of a page. If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence the recorder shall charge one dollar ($1) additional for each page on which such printing appears excepting, however, that such additional charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on or after January 1, 1990, pursuant to Section 9611, Section 27361, as amended by Section 1 of Chapter 59 of the Statutes of 1971, shall have the same force and effect as if the temporary provisions had not been enacted.

SEC. 2. Section 27361.3 of the Government Code is amended to read:

27361.3. Notwithstanding any contrary provision of the law, the fee for recording every release of lien, encumbrance, or notice executed by the state, or any municipality, county, city, district or other political subdivision shall be eight dollars ($8) if the original lien, encumbrance, or notice was recorded without fee as provided by Section 27383 of the Government Code.

No fee shall be charged for recording a release of lien, encumbrance, or notice which was recorded in error by the state, or any municipality, county, city, district or other political subdivision if there is noted on the face of the release of lien, encumbrance, or notice a statement to that effect.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on or after January 1, 1990, pursuant to Section 9611, Section 27361.3, as amended by Section 1 of Chapter 473 of the Statutes of 1975, shall have the same force and

effect as if the temporary provisions had not been enacted.

SEC. 3. The Legislature recognizes the vital importance to the public of each county's system of recorded documents which serves to establish the ownership of real property within that county. The Legislature also recognizes that the usefulness of each county's system of recorded documents depends upon the accuracy and timeliness of updates and accessibility to the system. Since counties must provide the financial support necessary to maintain their systems of recorded documents, the recording fee is an important financing element for these systems. It is also important that the recording fee be set in a uniform statewide manner to ease the burden of processing real estate transactions among the 58 counties in the state.

Therefore, it is the intent of the Legislature that the increased revenue to counties created by the fee changes enacted in Sections 1 and 2 of this act shall be made available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

CHAPTER 1157

An act to add Chapter 5 (commencing with Section 11000) to Part 1 of Division 3 of the Unemployment Insurance Code, relating to the deaf and hearing impaired, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 5 (commencing with Section 11000) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read:

CHAPTER 5. EMPLOYMENT SERVICES FOR THE DEAF AND HEARING IMPAIRED

11000. The Legislature finds that over 1.5 million persons in California are deaf or suffer from significant hearing impairment. Private and public employment agencies are not routinely adapted to meet the communication needs of deaf and hearing impaired persons and, therefore, the services they receive may be less than those provided to other persons. The Legislature also finds that employment opportunities for the deaf and hearing impaired are increased when specialized counseling, interpretive, job placement, and followup services supplement conventional employment

services. In addition, the limited programs which provide these specialized employment services to the deaf and hearing impaired have recently been subject to significant local funding reductions. Therefore, the Legislature finds that a more stable funding source, as provided by this chapter, is necessary to ensure the continuance of these programs.

11000.5. As used in this chapter "contractor" means a public agency or a private nonprofit corporation.

11001. (a) The department shall contract with public agencies or private nonprofit corporations for a period not to exceed one year to provide employment services for the deaf and hearing impaired. These employment services shall be provided on-site at the department's offices which are selected pursuant to Section 11004.

(b) At the end of each contract year, the department may renegotiate the terms of each contract in accordance with allowable increases or decreases in the contractor's costs and the contractor's demonstrated ability to provide the specified services.

(c) If a contractor is a private nonprofit corporation, it shall submit a complete financial statement audited by a certified public accountant prior to a renewal of the contract.

11002. Employment services for the deaf and hearing impaired shall include, but not be limited to, the following:

(a) Complete communication services for all preparatory, job placement, and followup activities. The communication services shall include interpreter services by a professional interpreter for the deaf possessing the comprehensive skills certification of the National Registry of Interpreters for the Deaf or the equivalent, telecommunications, and, when necessary, training in communication skills.

(b) Advocacy to assure that deaf and hearing impaired persons receive equal access to public and private employment services.

(c) Job development and job placement.

(d) Employment counseling, including peer counseling by deaf or hearing impaired individuals.

(e) Followup counseling and problem solving after placement.

11003. (a) The department, with the advice of persons knowledgeable about providing employment services to deaf and hearing impaired persons, shall establish the criteria for choosing contractors.

(b) The criteria shall include, but not be limited to, all of the following:

(1) The ability to provide services in a deaf or hearing impaired person's preferred mode of communication.

(2) The ability to secure community support, including written endorsements of local officials, employers, the private industry council of the local service delivery area and organizations of and for the deaf and hearing impaired.

(3) The existence of funding from one or more public or private sources.

(c) Preference shall be given in the selection of a contractor to those proposals which demonstrate all of the following:

(1) Participation of deaf and hearing impaired persons on the potential contractor's employment services staff, and in the case of a private nonprofit corporation, on the board of directors.

(2) A commitment to the development and maintenance of self-determination for deaf and hearing impaired persons.

11004. The department shall do all of the following:

(a) Determine the number and location of its offices within the state providing employment services to the deaf and hearing impaired and shall decide which offices shall be served by contractors given the resources available under this chapter. The department shall give priority to offices where contracts are necessary in order to prevent or minimize the disruption or the discontinuance of employment services to the deaf and hearing impaired which have been provided in conjunction with the department prior to July 1, 1984.

(b) Coordinate the provision of employment services for the deaf and hearing impaired with the State Department of Social Services and the Department of Rehabilitation so that employment services provided by this chapter supplement or provide alternatives to services provided or funded by the departments.

(c) Establish uniform accounting procedures and contracts for use with regard to this chapter.

(d) Promulgate requests for proposals and conduct bidders' conferences, and evaluate proposals according to the criteria established pursuant to Section 11003.

(e) Utilize the definitions of deafness and significant hearing impairment which have been used or established by regulation by the State Department of Social Services.

(f) Conduct a management or fiscal audit of any contract whenever it is necessary for proper supervision of that contract.

(g) Annually consider incorporation of the services described in this chapter in the job service plan required by Section 8 of the federal Wagner-Peyser Act (29 U.S.C. Sec. 49g).

(h) Assist contractors in maintaining all of the following information:

(1) The number of persons receiving services.

(2) A description of the services provided.

(3) The cost of the services provided.

(4) The number of persons placed in jobs.

(5) The number of persons assisted by follow up activities.

(6) The number and qualifications of staff providing the services.

11005. The State Job Training Coordinating Council shall do all of the following:

(a) Evaluate the contractors' provision of employment services to the deaf and hearing impaired persons, including the impact of employment services on a representative sample of recipients of services. The evaluation shall include an analysis of the effectiveness

of the services listed in Section 11002 and the cost of the services.

(b) Review the department's supervision of the contractors.

(c) Recommend legislative and administrative changes, if any.

The council shall submit the report to the Legislature by February 1, 1986.

11006. The Employment Development Department shall not expend over 5 percent of the sum appropriated for this chapter for its administrative costs.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue the provision of employment services to the deaf and hearing impaired, it is necessary for this act to take effect immediately.

CHAPTER 1158

An act to amend Section 89903 of, and to add Article 2 (commencing with Section 89920) to Chapter 7 of Part 55 of, the Education Code, and to repeal Section 11121.5 of the Government Code, relating to student body organizations.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 89903 of the Education Code is amended to read:

89903. Each auxiliary organization formed pursuant to this article, shall have a board of directors composed, both as to size and categories of membership, in accordance with regulations established by the Trustees of the California State University.

Each governing board shall, during each fiscal year, hold at least one business meeting each quarter in accordance with Article 2 (commencing with Section 89920). The board shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney at law nor the certified public accountant need be members of the board.

No auxiliary organization shall accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with policies of the trustees.

SEC. 2. Article 2 (commencing with Section 89920) is added to Chapter 7 of Part 55 of the Education Code, to read:

Article 2. Meetings, Elections, and Judicial Determinations

89920. Each governing board, or any subboard of the governing board, of an auxiliary organization shall conduct its business in public meetings. All governing board and subboard meetings shall be open and public, and all persons shall be permitted to attend any meeting of the governing board or subboard of an auxiliary organization, except as otherwise provided in this article.

89921. Each governing board and subboard shall annually establish, by resolution, bylaws, or whatever other rule is required for the conduct of business by that body, the time and locations for holding regular meetings. Each governing board and subboard shall, at least one week prior to the date set for the meeting, give written notice of every regular meeting, and any special meeting which is called, at least one week prior to the date set for the meeting, to any individual or medium that has filed a written request for notice. Any request for notice filed pursuant to this section shall be valid for one year from the date on which it is filed unless a renewal request is filed.

89922. A special meeting may be called at any time by the presiding officer of a governing board or subboard, or by a majority of the members of the governing board or subboard, by delivering personally or by mail written notice to each member of the board or subboard, and to any medium or other party to be directly affected by a meeting, or any other person who has requested notice in writing. The call and notice of a special meeting shall be delivered at least 24 hours prior to any meeting and shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the governing board or subboard. Written notice may be dispensed with as to any member who, at or prior to the time the meeting convenes, files with the clerk or the secretary of the governing board or subboard a written waiver of notice. The waiver may be given by telegram. Written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

89923. Any governing board or subboard may hold closed sessions to consider matters relating to litigation, collective bargaining, or the appointment, employment, evaluation of performance, or dismissal of an employee, or to hear complaints or charges brought against an employee by another person or employee, unless the employee requests a public hearing. For the purposes of this section, "employee" does not include any person elected or appointed to an office. A board or subboard, upon a favorable majority vote of its members, may also hold a closed session to discuss investments where a public discussion could have a negative impact on the auxiliary organization's financial situation. In this case, a final decision shall only be made during public sessions.

89924. No governing board or subboard shall take action on any

issue until that issue has been publicly posted for at least one week.

89925. Each auxiliary organization shall establish, by constitution, statute, bylaws, or resolution, provisions for elections of officers and board members. These provisions shall be designed to allow all those eligible to vote complete access to all information on issues and candidates. These provisions shall include, but not be limited to, provisions for sample ballots, numbers of days and hours for voting, polling locations, and notice of elections.

89926. Where the constitution or articles of incorporation of an associated students auxiliary organization provides for a judiciary or judicial council with powers separate from the governing board of the auxiliary organization, decisions rendered by the judiciary or judicial council shall be final.

89927. Each member of a governing board pursuant to this article who attends a meeting of the governing board where action is taken in violation of any provision of this article, with knowledge of the fact that the meeting is in violation of this article, is guilty of a misdemeanor.

89928. This article is applicable to the governing board of any statewide student organization which represents the students of the California State University and student body organizations of the campuses of the California State University.

SEC. 3. Section 11121.5 of the Government Code is repealed.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1159

An act to add Section 16367.55 to the Government Code, relating to energy assistance.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 16367.55 is added to the Government Code, to read:

16367.55. (a) In determining the maximum allowable annual payment of energy crisis intervention program benefits for eligible households under Section 16367.5, the Office of Economic Opportunity may take into consideration the energy cost variations

between baseline territories as established by the Public Utilities Commission or between counties within the state.

(b) Persons applying for benefits under this subdivision shall be entitled to submit an application for benefits at the designated community agencies during regular business hours. Applications shall be accepted and eligibility shall be determined immediately after the applicant has provided the evidence required under this subdivision. If the application is denied, the applicant shall be given a written statement of the reason for denial, availability of a fair hearing to contest denial, and procedure for exercising hearing rights.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1160

An act to amend Section 66796.33 of the Government Code and to add Section 25143.5 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 66796.33 of the Government Code is amended to read:

66796.33. (a) When issuing, modifying, or revising any solid waste facilities permit, the enforcement agency shall ensure that primary consideration is given to preventing environmental damage and that the long-term protection of the environment is the guiding criterion. To achieve these purposes, the enforcement agency may prohibit or condition the handling or disposal of solid waste to protect, rehabilitate, or enhance the environmental quality of the state or to mitigate adverse environmental impacts. If an operator holds a permit issued under subdivision (a) of Section 66796.30, the permit shall control, and no condition imposed under this section shall be more restrictive than the terms of the permit issued under subdivision (a) of Section 66796.30.

(b) The enforcement agency may include in a solid waste facilities permit a reasonable time schedule for existing facilities for compliance with the standards adopted by the board and standards

and conditions contained in the approved county solid waste management plan.

(c) Any permit may be suspended, modified, or revoked by the enforcement agency after a hearing for cause, including, but not limited to, any of the following:

(1) Intentional or negligent violation of any term or condition contained in the permit.

(2) Obtaining the permit by misrepresentation or failure to disclose fully all relevant facts.

(3) Failure to fulfill the terms of a compliance schedule developed pursuant to Section 66796.39.

(d) Any solid waste facilities permit issued, modified, or revised under this chapter shall be reviewed and, if necessary, revised at least every five years.

(e) The enforcement agency may suspend or revoke the permit of any solid waste facility designed to convert solid waste from offsite sources into energy or synthetic fuels if the facility utilizes recyclable materials for conversion to energy and if the local agency in whose jurisdiction the materials are collected requires, by ordinance, contract, or otherwise, that recyclable materials within the jurisdiction of that local agency be converted into energy at that facility. This subdivision does not otherwise restrict the ability of a solid waste facility to purchase, collect, transport, or process recyclable materials. For purposes of this subdivision, "local agency" has the same meaning as in subdivision (a) of Section 66787 and "recyclable materials" means discarded paper, glass, cardboard, plastic, ferrous metal, or aluminum which has been segregated from other solid waste materials for the purpose of reuse or recycling, except that recyclable materials do not include materials which a local agency, having jurisdiction over the locations where these materials exist, determines could be potentially harmful to the public health, or materials which create a public nuisance, as defined in Section 3480 of the Civil Code.

(f) The enforcement agency shall include, in the permit of any solid waste facility designed to convert solid waste into energy or synthetic fuels, a provision which requires the use of operating procedures at the facility to prevent significant quantities of hazardous waste from entering the conversion process and to ensure that the ash which is produced continues to be nonhazardous.

SEC. 2. Section 25143.5 is added to the Health and Safety Code, to read:

25143.5. (a) Except as provided in subdivision (d), the department shall classify as nonhazardous waste any fly ash, bottom ash, and flue gas emission control residues, generated from the combustion of solid waste or biomass material, if these wastes do not contain significant quantities of industrial sludge or hazardous waste, and if the combustion of the solid waste or biomass material will be adequately monitored and controlled so as to prevent the handling or the disposal of any waste in a manner prohibited by law, unless the

department determines that the ash or residue is hazardous, by testing a representative sample of the ash or residue pursuant to criteria adopted by the department. If the department determines that the ash or residue is nonhazardous, the department shall not repeal or modify that determination unless the department subsequently determines that, since the original testing, there has been a significant change in the fly ash, bottom ash, or flue gas emissions control residues, based upon data obtained from a representative sample of the ash or residue.

(b) The fly ash, bottom ash, and flue gas emission control residues which are classified as nonhazardous by the department are exempt from this chapter.

(c) An operator of a solid waste facility which converts solid waste into energy shall notify the department whenever there has been a significant change in the waste entering the combustion process, the combustion process itself, or in the management of the ash or residues generated by the facility.

(d) The classifications of fly ash, bottom ash, and flue gas emission control residues as nonhazardous, made by the department before January 1, 1985, for the ash or residue generated by an individual solid waste facility which will convert solid waste into energy shall not be modified or repealed by the department unless the department determines all of the following:

(1) New data reveals that there has been a significant change in the solid waste entering the combustion process, in the combustion process itself, or in the management of the ash or residue.

(2) The change specified in paragraph (1) causes the facility to produce waste which is hazardous waste, as defined in Section 25117, as determined by the testing of a representative sample of the ash or residue pursuant to criteria adopted by the department.

(3) The hazard caused by the change specified in paragraph (1) or the hazardous waste produced by the facility is not adequately regulated by any other state or local agency with jurisdiction over the facility which generates the ash or residue.

This subdivision applies to determinations made by the department for individual solid waste conversion facilities, including, but not limited to, those projects which will be constructed or will serve the Counties of San Diego, Humboldt, San Joaquin, Butte, Trinity, Sacramento, and Alameda, and the Cities of San Francisco, Long Beach, Fresno, Modesto, Sanger, and Commerce.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1161

An act to amend Section 15043 of, and to add Sections 15003 and 15003.3 to, the Unemployment Insurance Code, relating to job training.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 15003 is added to the Unemployment Insurance Code, to read:

15003. The Legislature finds and declares that the federal Job Training Partnership Act sets minimum rates of funding for specified populations. The Job Training Partnership Act requires that no less than 40 percent of the Job Training Partnership Act Title IIA funds shall be expended on services to youth. Additionally, Title IIA of the Job Training Partnership Act requires 3 percent of a state's allotment to be made available for employment training of older individuals.

The Legislature also finds and declares that Section 126 of the federal Job Training Partnership Act allows the enactment of state legislation to implement the federal Job Training Partnership Act programs, provided the state legislation is consistent with that federal act.

SEC. 2. Section 15003.3 is added to the Unemployment Insurance Code, to read:

15003.3. Economically disadvantaged women and minorities shall be served with federal Job Training Partnership Act funds, with respect to Title I and Title II of the act, at a rate that approximates their rate of representation and need for job training among the economically disadvantaged within each service delivery area.

SEC. 3. Section 15043 of the Unemployment Insurance Code is amended to read:

15043. Service delivery area plans shall contain provisions required by the federal Job Training Partnership Act and this division, including but not necessarily limited to, the following:

(a) A description of the service delivery area's system for administering and delivering services including private industry council membership.

(b) A description of, and the rationale for, the service delivery area's eligibility and services priorities, the types of services and training provided, the industries and occupations of training, the criteria for the content and quality of training, the entities delivering services, and the performance measures used.

(c) A description of the coordination with and the uses made of other agencies and organizations within the service delivery area providing job training, vocational education, client advocacy, child care and employment services, which shows the value of these other

resources in addressing the needs reflected in the plan.

(d) A proposed budget for the planning period describing program objectives, services to be provided for the purpose of achieving those objectives, the sources and amounts of funds to be allocated to each type of service, and estimates of the number of persons in each eligibility category in need and the number of persons in each eligibility category to be served by each type of service. The budget shall also describe administrative objectives, the purpose and rationale for such objectives, and the sources and amounts of funds to be allocated to each objective.

(e) A status report on the activities of the current fiscal year describing progress toward achieving program and administrative objectives as well as other legislative requirements imposed by the current budget, including the current status and financial condition of the federal and state funds allocated to the service delivery area and the capacity to meet current year objectives.

(f) A description of the activities, financial condition and accomplishments of the service delivery area's job preparation and training services program for the preceding fiscal year, including a description of the extent to which program and administrative objectives set forth for that year were realized, and a description of expenditures by sources of funds for services provided pursuant to this division in that year.

(g) A description of the condition of job preparation and training services taking place in the service delivery area, including an analysis of issues confronting the program and recommendations appropriate to resolve such issues.

(h) A description of the unmet childcare needs of participants eligible for services under this division, including an assessment of the role of employers in reducing this barrier to participation.

(i) Assurance that economically disadvantaged women and minorities will be served with federal Job Training Partnership Act funds, with respect to Title I and Title II of the act, at a rate that approximates their rate of representation and need for job training among the economically disadvantaged within each service delivery area. If the goals of the plan are not designed to comply with this subdivision, the private industry council shall submit its justification for noncompliance to the State Job Training Coordinating Council and the Governor.

CHAPTER 1162

An act to amend and renumber the heading of Article 1.5 (commencing with Section 1000) of Chapter 3 of Division 2 of, to repeal Sections 1902 and 1903 of, to repeal Article 1 (commencing with Section 900) of Chapter 3 of Division 2 of, and to repeal Chapter 1.5 (commencing with Section 2050) of, and to add Chapter 1.5

(commencing with Section 2060) to, Division 3 of, the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Article 1 (commencing with Section 900) of Chapter 3 of Division 2 of the Fish and Game Code is repealed.

SEC. 2. The heading of Article 1.5 (commencing with Section 1000) of Chapter 3 of Division 2 of the Fish and Game Code is amended and renumbered to read:

Article 1. Generally

SEC. 3. Section 1902 of the Fish and Game Code is repealed.

SEC. 4. Section 1903 of the Fish and Game Code is repealed.

SEC. 5. Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code, as added by Chapter 1510 of the Statutes of 1970, is repealed.

SEC. 6. Chapter 1.5 (commencing with Section 2060) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 1.5. ENDANGERED SPECIES

Article 1. General Provisions

2060. The definitions in this article govern the construction of this chapter.

2062. "Endangered species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion of, its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. Any species determined by the commission as "endangered" on or before January 1, 1985, is an "endangered species."

2067. "Threatened species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. Any animal determined by the commission as "rare" on or before January 1, 1985, is a "threatened species."

2068. "Candidate species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that the commission has formally noticed as being under review by the department for addition to either the list of endangered species or

the list of threatened species, or a species for which the commission has published a notice of proposed regulation to add the species to either list.

Article 2. Listing of Endangered Species

2070. The commission shall establish a list of endangered species and a list of threatened species. The commission shall add or remove species from either list if it finds, upon the receipt of sufficient scientific information pursuant to this article, that the action is warranted.

2071. The commission shall adopt guidelines by which an interested person may petition the commission to add a species to, or to remove a species from either the list of endangered or the list of threatened species.

2071.5. The department shall recommend, and the commission shall adopt, criteria for determining if a species is endangered or threatened.

2072. The petition shall be written, shall be clearly identified as a petition, and shall clearly indicate the administrative measure recommended.

2072.3. To be accepted, a petition shall, at a minimum, include sufficient scientific information that a petitioned action may be warranted. Petitions shall include information regarding the population trend, range, distribution, abundance, and life history of a species, the factors affecting the ability of the population to survive and reproduce, the degree and immediacy of the threat, the impact of existing management efforts, suggestions for future management, and the availability and sources of information. The petition shall also include information regarding the kind of habitat necessary for species survival, a detailed distribution map, and any other factors that the petitioner deems relevant.

2072.7. The department may, in the absence of a petition from an interested party, recommend to the commission that it add a species to, or remove a species from, either the list of endangered species or the list of threatened species. If it makes a recommendation under this section, the department shall include the information specified in Section 2072.3. A department recommendation under this section shall be considered by the commission as a petition with a departmental recommendation to accept and consider as described in subdivision (b) of Section 2073.5, and is subject to Sections 2074 to 2079, inclusive.

2073. Within 10 days of the receipt of a petition from an interested person under Section 2072.3, the commission shall refer the petition to the department.

2073.5. Within 90 days, the department shall evaluate the petition, and report one of the following recommendations to the commission:

(a) Based upon the information contained in the petition, there

is not sufficient information to indicate that the petitioned action may be warranted, and the petition should be rejected.

(b) Based upon the information contained in the petition, there is sufficient information to indicate that the petitioned action may be warranted, and the petition should be accepted and considered.

2074. The commission shall schedule the petition for consideration at its next available meeting and distribute its pending agenda to interested persons pursuant to Section 2078. The commission shall also make the petition available for review upon request.

2074.2. (a) At the scheduled meeting, the commission shall consider the petition, the department's written report, and comments received, and the commission shall make and enter in its public record one of the following findings:

(1) If the commission finds that the petition does not provide sufficient information to indicate that the petitioned action may be warranted, the commission shall publish a notice of finding that the petition is rejected, including the reasons why the petition is not sufficient.

(2) If the commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, the commission shall publish a notice of finding that the petition is accepted for consideration. If the accepted petition recommends the addition of a species to either the list of endangered species or the list of threatened species, the commission shall include in the notice that the petitioned species is a candidate species. The commission shall maintain a list of species which are candidate species.

(b) The commission shall distribute the findings relating to the petition pursuant to Section 2078.

2074.4. If a petition is accepted by the commission for consideration, all reasonable attempts shall be made to notify affected and interested parties and to solicit data and comments on the petitioned action from as many persons as is practicable. In addition to commission efforts to provide notification through distribution of the commission agenda and minutes pursuant to Section 2078, the department shall immediately undertake efforts to notify affected and interested parties. Methods of notification may include, but are not limited to, correspondence, newspaper notices, and press releases, and notification shall include notice to owners of that land which may provide habitat essential to the continued existence of the species, unless the director determines that ownership is so widespread, fragmented, or complex as to make individual notice impractical.

2074.6. The department shall promptly commence a review of the status of the species concerned in the petition. Within 12 months of the date of publication of a notice of acceptance of a petition for consideration by the commission pursuant to paragraph (2) of subdivision (a) of Section 2074.2, the department shall provide a written report to the commission, based upon the best scientific

information available to the department, which indicates whether the petitioned action is warranted, which includes a preliminary identification of the habitat that may be essential to the continued existence of the species, and which recommends management activities and other recommendations for recovery of the species.

2074.8. Nothing in this article imposes any duty or obligation for, or otherwise requires, the commission or the department to undertake independent studies or other assessments of any species when reviewing a petition and its attendant documents and comments.

2075. The commission shall schedule the petition for final consideration at its next available meeting after receipt of the departmental report provided pursuant to Section 2074.6 and shall distribute the pending agenda for that meeting pursuant to Section 2078. The commission shall make the department's report, or copies thereof, which was provided, pursuant to Section 2074.6, available for review upon request.

2075.5. At the meeting scheduled pursuant to Section 2075, the commission shall make one of the following findings:

(1) The petitioned action is not warranted, in which case the finding shall be entered in the public records of the commission and the petitioned species shall be removed from the list of candidate species maintained pursuant to Section 2074.2.

(2) The petitioned action is warranted, in which case the commission shall publish a notice of that finding and a notice of proposed rulemaking pursuant to Section 11346.4 of the Government Code to add the species to, or remove the species from, the list of endangered species or the list of threatened species. Further proceedings of the commission on the petitioned action shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2076. Any finding pursuant to this section is subject to judicial review under Section 1094.5 of the Code of Civil Procedure.

2076.5. Notwithstanding Sections 2071 to 2075.5, inclusive, the commission may adopt a regulation which adds a species to the list of endangered species or to the list of threatened species as an emergency regulation pursuant to Article 1.5 (commencing with Section 240) to Chapter 2 of Division 1 if the commission finds that there is any emergency posing a significant threat to the continued existence of the species. The commission shall notify affected or interested persons of the adoption of such an emergency regulation pursuant to the methods described in Section 2074.4.

2077. (a) The department shall review species listed as an endangered species or as a threatened species every five years to determine if the conditions that led to the original listing are still present. The review shall be conducted based on information which is consistent with the information specified in Section 2072.3 and which is the best scientific information available to the department. The review shall include a review of the identification of the habitat

that may be essential to the continued existence of the species and the department's recommendations for management activities and other recommendations for recovery of the species. The department shall notify any person who has notified the commission, in writing with their address, of their interest, and the department may notify any other person.

(b) Review of species that are listed by both the commission and the United States Department of Interior will be conducted in conjunction with the five-year review process of the United States Department of Interior.

(c) Initial review of those species listed by the commission before January 1, 1982, that are not listed by the federal government shall be undertaken and completed by July 1, 1987. Initial review of those species listed by the commission after January 1, 1982, that are not listed by the federal government shall be undertaken and completed within five years of the date the species was originally listed by the commission.

(d) Notwithstanding any other provision of this section, the commission or the department may review a species at any time based upon a petition or upon other data available to the department and the commission.

(e) The department shall report in writing to the commission the results of its five-year review for each listed species. The commission shall treat any report of the department under this subdivision which contains a recommendation to add a species to, or remove a species from, the list of endangered species or the list of threatened species as a department recommendation submitted pursuant to Section 2072.7.

2078. To provide all interested persons access to information and notification of pending listing or delisting actions, the commission shall distribute the related agenda of pending actions and those portions of its minutes of actions taken under this article to any individuals who have notified the commission, in writing with their address, of their interest. This notification shall meet the requirements of public notice as required for commission action under Section 2074, 2074.2, 2075, or 2077.

2079. The department shall, by January 30 of each year, beginning January 30, 1986, prepare a report summarizing the status of all state listed endangered, threatened, and candidate species, and shall submit the report to the commission, the Legislature, the Governor, and all individuals who have notified the commission, in writing with their address, of their interest. This report shall include, but not be limited to, a listing of those species designated as endangered, threatened, and candidate species, a discussion of the current status of endangered, threatened, or candidate species, and the time frames for the review of listed species pursuant to this article.

Article 3. Taking, Importation, Exportation, or Sale

2085. The provisions of this article shall apply to any species designated as a candidate species under Section 2074.2 if notice has been given pursuant to Section 2074.4.

Article 4. State Agency Consultation

2096. The provisions of this article do not apply to any species designated as a candidate species under Section 2074.2. However, upon a request from a lead agency or a project proponent, the department shall grant an informal consultation on any proposed project which may affect a candidate species. It is the intent of the Legislature to facilitate the resolution of potential conflicts between candidate species and proposed projects on the basis of information available at the time, and not to require the alteration of project processing schedules pending final determination of the status of any candidate species.

Article 5. Funding

2098. The department shall pay the costs of administration of this chapter from the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

SEC. 7. It is the intent of the Legislature if this bill and AB 3309 are both chaptered and become effective January 1, 1985, and this bill is chaptered after AB 3309, that the provisions of Chapter 1.5 (commencing with Section 2060), as added to Division 3 of the Fish and Game Code by this bill, and Chapter 1.5 (commencing with Section 2050), as added to Division 3 of the Fish and Game Code by AB 3309, form a single, unified California Endangered Species Act (Chapter 1.5 (commencing with Section 2050), Division 3, Fish and Game Code).

Therefore, if both this bill and AB 3309 are chaptered and this bill is chaptered last, this bill does not prevail over AB 3309 and the provisions of both bills shall become operative in a single, unified Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

CHAPTER 1163

An act to amend Sections 527.6, 540, 542, and 545 of the Code of Civil Procedure, relating to domestic harassment.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(g) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk to mail, a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(j) This section does not apply to any action covered by Section 4359 or 7020 of the Civil Code, or by Chapter 4 (commencing with Section 540) of this title, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 2. Section 540 of the Code of Civil Procedure is amended to read:

540. The purposes of this chapter are to prevent the recurrence of acts of violence by a spouse or household member against another spouse or other family or household members, or by a putative parent against a person as provided in subdivision (d) of Section 542, and to provide for a separation of the persons involved in such domestic violence for a period of time sufficient to enable such persons to seek resolution of the causes of the violence.

SEC. 3. Section 542 of the Code of Civil Procedure is amended to read:

542. As used in this chapter, the following words have the following meanings:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(b) "Domestic violence" is abuse perpetrated against a family or household member, or against a person as provided in subdivision (d).

(c) "Family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who within the last six months regularly resided in the household.

(d) A person who is the parent of a minor child shall be eligible to proceed under this chapter where there exists (1) the presumption that the male parent is the father of any minor child of the female parent pursuant to Section 7000 et seq. of the Civil Code and (2) one parent has perpetrated abuse against the other parent as defined in subdivision (a).

SEC. 4. Section 545 of the Code of Civil Procedure is amended to read:

545. A temporary restraining order may be granted with or without notice to restrain any person upon an affidavit which, to the satisfaction of the court, shows reasonable proof of a past act or acts of abuse for the purpose of preventing a recurrence of domestic violence and assuring a period of separation of the persons involved. A temporary restraining order may be granted pursuant to this chapter to any family or household member who, prior to or at the time such order is granted, was actually residing with the person or persons at whom such order is directed, or to a person provided in subdivision (d) of Section 542. The right to petition for relief shall not be denied because the plaintiff has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for legal separation, nullity of marriage, or dissolution of marriage has not been filed. Such order may be granted in the manner provided in Section 527.

CHAPTER 1164

An act to amend Sections 51, 75.18, and 110.1 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 51 of the Revenue and Taxation Code is amended to read:

51. For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:

(a) Its base year value, compounded annually since the base year by an inflation factor, which shall be determined as follows:

(1) For any assessment year commencing prior to January 1, 1985, the inflation factor shall be the percentage change in the cost of living, as defined in Section 2212; or

(2) For any assessment year commencing after January 1, 1985, the inflation factor shall be the percentage change from December of the prior fiscal year to December of the current fiscal year in the

California Consumer Price Index for all items, as determined by the California Department of Industrial Relations; provided, that the percentage increase for any assessment year determined pursuant to paragraph (1) or (2) shall not exceed 2 percent of the prior year's value; or

(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, or other factors causing a decline in value; or

(c) If the property was damaged or destroyed by disaster, misfortune, or calamity and the board of supervisors of the county in which the property is located has not adopted an ordinance pursuant to Section 170, or removed by voluntary action by the taxpayer, the sum of (1) the lesser of its base year value of land determined under subdivision (a) or full cash value of land determined pursuant to subdivision (b), plus (2) the lesser of its base year value of improvements determined under subdivision (a) or the full cash value of improvements determined pursuant to subdivision (b), which shall then become the base year value until such property is restored, repaired, or reconstructed or other provisions of law require establishment of a new base year value; or

(d) If the property was damaged or destroyed by disaster, misfortune or calamity and the board of supervisors in the county in which the property is located has adopted an ordinance pursuant to Section 170, its assessed value as computed pursuant to Section 170.

(e) For purposes of subdivisions (a) and (b), "real property" means that appraisal unit which persons in the market place commonly buy and sell as a unit, or which are normally valued separately.

(f) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property.

SEC. 2. Section 75.18 of the Revenue and Taxation Code is amended to read:

75.18. On and after July 1, 1983, if the actual date of the most recent change in ownership or completion of new construction entered on the supplemental roll occurs between March 1, and June 30, then the new base year value shall be adjusted on the March 1 following the change in ownership or completion of new construction by the inflation factor, which shall be determined as provided in subdivision (a) of Section 51.

SEC. 3. Section 110.1 of the Revenue and Taxation Code is amended to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property, including possessory interests in real property, means the fair market value as determined pursuant to Section 110 for either:

(1) The 1975 lien date; or,

(2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date:

(A) The date on which a purchase or change in ownership occurs; or

(B) The date on which new construction is completed, and if uncompleted, on the lien date.

(b) The value determined under subdivision (a) shall be known as the base year value for the property.

(c) Notwithstanding any provisions of Section 405.5, for property which was not purchased or newly constructed or has not changed ownership after the 1975 lien date, if the value as shown on the 1975–76 roll is not its 1975 lien date base year value and if the value of that property had not been determined pursuant to a periodic reappraisal under Section 405.5 for the 1975–76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year; provided, however, that for any county over four million in population the board of supervisors may adopt a resolution granting the assessor of that county until June 30, 1981, the authority to determine those values. In determining the new base year value for that property, the assessor shall use only those factors and indicia of fair market value actually utilized in appraisals made pursuant to Section 405.5 for the 1975 lien date. The new base year values shall be consistent with the values established by reappraisal for the 1975 lien date of comparable properties which were reappraised pursuant to Section 405.5 for the fiscal year. In the event that determination is made, no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only; provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

(d) If the value of any real property as shown on the 1975–76 roll was determined pursuant to a periodic appraisal under Section 405.5, that value shall be the 1975 lien date base year value of the property.

(e) As used in subdivisions (c) and (d), a parcel of property shall be presumed to have been appraised for the 1975–76 fiscal year if the assessor's determination of the value of the property for the 1975–76 fiscal year differed from the value used for purposes of computing the 1974–75 fiscal year tax liability for the property, but the assessor may rebut that presumption by evidence that, notwithstanding the difference in value, that parcel was not appraised pursuant to Section 405.5 for the 1975–76 fiscal year.

(f) For each lien date after the lien date in which the full cash value is determined pursuant to this section, the full cash value of real property, including possessory interests in real property, shall be adjusted by an inflation factor, which shall be determined as provided in subdivision (a) of Section 51.

CHAPTER 1165

An act relating to Owens Dry Lake, and making an appropriation therefor.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Notwithstanding Section 21191 of the Public Resources Code, the sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the California Environmental License Plate Fund to the State Lands Commission for expenditure during the 1984–85 and 1985–86 fiscal years, for the continuation of a research program of fugitive dust control methods on the bed of Owens Dry Lake in Inyo County pursuant to Chapter 638 of the Statutes of 1980. The continuation of the program shall be conducted in cooperation with the Owens Dry Lake Task Force of which the County of Inyo, the County of Kern, the Great Basin Unified Air Pollution Control District, the Los Angeles Department of Water and Power, the United States Navy, and the State Lands Commission are members. The State Lands Commission shall submit a report to the Legislature at the completion of the continued program setting forth findings and recommendations.

CHAPTER 1166

An act to amend Sections 91553 and 91560 of, and to add Sections 91561, 91561.3, 91561.5, 91562, and 91562.5, to, the Government Code, relating to small business financing.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 91553 of the Government Code is amended to read:

91553. The chairperson of the commission on its behalf shall appoint an executive secretary who shall serve at the pleasure of the commission and shall receive an annual salary which shall be established by the chairperson of the commission. The commission may employ such additional staff as it deems necessary and appropriate to carry out the provisions of this title. The commission shall charge fees commensurate with its direct expenses and those of the office of the State Treasurer in performing its duties pursuant to this title. Amounts received under this section shall be deposited in

the Industrial Development Fund which is hereby created and shall be available, when appropriated, for the expenses of the commission. Until such time as fees are received by the commission and appropriated pursuant to this section for the expenses of the commission, the commission may borrow such moneys as may be required for the purpose of meeting necessary expenses of initial organization and operation of the commission.

SEC. 2. Section 91560 of the Government Code is amended to read:

91560. (a) The Legislature finds and declares that small businesses may have difficulty establishing adequate security for bonds issued by an authority in their behalf; that establishing common reserve funds will help to provide reasonable security for such bonds and will help to make the authority's services available to various small businesses which may be otherwise unable to use them.

(b) For the purpose of establishing and maintaining such common reserve funds as it deems necessary or desirable to secure its bonds or any issuance thereof, the California Industrial Development Finance Advisory Commission pursuant to Section 91560 or an authority, pursuant to its project agreements with companies, may levy fees or other charges on, or require deposits from, companies receiving financing for projects under this title. Prior to levying any such fees or charges or requiring such deposits, the commission or an authority shall adopt regulations for the operation of the common reserve funds and governing the amounts and any payment schedule for such fees, charges, or deposits.

(c) Subject to any prior contractual obligations to any of its bondholders, the commission or an authority may establish one or more common reserve funds for any or all of its bonds. The commission shall establish its own liability limits of any such common reserve fund with respect to any single issue of bonds issued by the commission, and each authority shall establish its liability limits of any such common reserve fund with respect to any single issue of bonds issued by the authority subject to the approval of the commission.

(d) Each common reserve fund established pursuant to this section shall be deposited in a special account which shall be established by the Controller. Notwithstanding any other provision of law, all interest or other increment earned by investment or deposit of moneys in such an account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

SEC. 3. Section 91561 is added to the Government Code, to read:

91561. Upon the request of an authority, the commission may act as a pooling agent in the issuance of bonds for the benefit of small businesses, when it is more expedient for the commission to do so, or at the request of the local authority, or both. As a pooling agent,

the commission shall issue pooled bonds pursuant to Sections 91520, and following, of this code, based on a combination by the commission, or by an authority, of small business loan requests. Pooled bond issues shall be in multiples of one million dollars ($1,000,000).

SEC. 4. Section 91561.3 is added to the Government Code, to read:

91561.3. (a) Each local authority shall be empowered to enter into joint powers agreements with other local authorities to issue pooled bonds in response to small business loan requests after receiving commission approval, and pursuant to Section 11256.

(b) The commission shall be designated as the agency to administer such agreements pursuant to Section 6506.

SEC. 5. Section 91561.5 is added to the Government Code, to read:

91561.5. "Small business" means small business as defined in Section 14837.

SEC. 6. Section 91562 is added to the Government Code, to read:

91562. A small business loan issued pursuant to this chapter, shall be for no less than seventy-five thousand dollars ($75,000), nor more than five hundred thousand ($500,000).

SEC. 7. Section 91562.5 is added to the Government Code, to read:

91562.5. The commission shall consider small business requests on a quarterly basis.

CHAPTER 1167

An act to add Section 5000.1 to the Education Code, and to add Section 23509.1 to the Elections Code, relating to elections.

[Approved by Governor September 14, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 5000.1 is added to the Education Code, to read:

5000.1. (a) Notwithstanding any provision of law to the contrary the governing board of any school district or community college district in the County of San Diego may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary election, or the day of the statewide General Election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, the provisions contained in Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code shall govern the consolidation, and, if the

county clerk is requested to conduct the municipal election, Section 22003 of the Elections Code shall be applicable to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those district officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the last Friday in November following the general district election in an odd-numbered year shall instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four year term of office and upon the qualification of their successors at the time prescribed by the governing board.

SEC. 2. Section 23509.1 is added to the Elections Code, to read:

23509.1. (a) Notwithstanding any other provision of law to the contrary, a governing board in the County of San Diego" may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary election or the day of the statewide General Election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, the provisions contained in Part 2.5 (commencing with Section 23300) shall govern the consolidation, and, if the county clerk is requested to conduct the election, Section 22003 shall apply to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the last Friday in November following the general district election in an odd-numbered year shall, instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four-year term and upon the qualification of their successors at the time prescribed by the governing board.

CHAPTER 1168

An act to amend and repeal Section 11800 of the Health and Safety Code, relating to alcohol programs.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11800 of the Health and Safety Code is amended to read:

11800. (a) The board of supervisors shall designate a health-related county agency or department which shall administer

the county alcohol program. Except as otherwise provided in subdivision (c), the head of the designated health-related agency or department shall appoint a full-time alcohol program administrator, who shall report to the head of such agency or department through administrative channels designated by the board of supervisors. The county alcohol program shall be placed at the same administrative level and have responsibility and authority similar to other major health programs in the county.

(b) In accordance with regulations adopted by the department, the alcohol program administrator shall be qualified by his or her ability, training, and experience to administer or coordinate and monitor the county alcohol program.

(c) The requirement in subdivision (a) that the alcohol program administrator be full time shall not apply to any of the following:

(1) Any county whose population does not exceed 200,000.

(2) Any county whose population exceeds 200,000 and whose election to appoint an alcohol program administrator for less than full time has been approved by the department. Any county may, at its option, make this election. The department may grant its approval under this subdivision if, in the opinion of the department the county's election is cost-effective and the integrity of the county program would be maintained.

In any county described in paragraph (1) or (2) the board of supervisors shall designate an alcohol program administrator who may be a person who administers other health-related programs in addition to the alcohol program.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 11800 of the Health and Safety Code, as added by Section 6 of Chapter 679 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1169

An act to amend Section 1791 of, and to add Section 1795.4 to, the Civil Code, relating to consumer warranties.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof

that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the

retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalogue or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

SEC. 2. Section 1795.4 is added to the Civil Code, to read:

1795.4. For the purposes of this chapter only, the following rules apply to leases of both new and used consumer goods:

(a) If express warranties are regularly furnished to purchasers of substantially the same kind of goods, (1) those warranties will be deemed to apply to the leased goods and (2) the lessor and lessee shall each be deemed to be the first purchaser of the goods for the purpose of any warranty provision limiting warranty benefits to the original purchaser.

(b) The lessee of goods has the same rights under this chapter against the manufacturer and any person making express warranties that the lessee would have had under this chapter if the goods had been purchased by the lessee, and the manufacturer and any person making express warranties have the same duties and obligations under this chapter with respect to the goods that such manufacturer and other person would have had under this chapter if the goods had been sold to the lessee.

(c) If a lessor leases goods to a lessee from the lessor's inventory, the lessee has the same rights under this chapter against the lessor that the lessee would have had if the goods had been purchased by the lessee, and the lessor has the same duties and obligations under this chapter with respect to the goods that the lessor would have had under this chapter if the goods had been sold to the lessee. For purposes of this section, "inventory" shall include both goods in the lessor's possession prior to negotiation of the lease and goods ordered from another party in order to lease those goods to the lessee where the lessor is a dealer in goods of that type.

(d) If a lessor leases goods to a lessee which the lessor acquires

other than from the lessor's inventory, the lessee has the same rights under this chapter against the seller of the goods to the lessor that the lessee would have had under this chapter if the goods had been purchased by the lessee from the seller, and the seller of the goods to the lessor has the same duties and obligations under this chapter with respect to the goods that the seller would have had under this chapter if the goods had been purchased by the lessee from the seller.

(e) A lessor who re-leases goods to a new lessee and does not retake possession of the goods prior to consummation of the re-lease may, notwithstanding the provisions of Section 1793, disclaim as to that lessee any and all warranties created by this chapter by conspicuously disclosing in the lease that these warranties are disclaimed.

(f) A lessor who has obligations to the lessee with relation to warranties in connection with a lease of goods and the seller of goods to a lessor have the same rights and remedies against the manufacturer and any person making express warranties that a seller of the goods would have had if the seller had sold the goods to the lessee.

CHAPTER 1170

An act to amend Sections 11165 and 11172 of the Penal Code, relating to child abuse reporting.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe

malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of physical injury on a child which is inflicted by other than accidental means, or of sexual assault or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 1.5. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law

enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury).

"Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution, including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant

immunity from liability with respect to any other use of the photographs.

(b) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, medical practitioner, nonmedical practitioner, or an employee of a child protective agency may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

This subdivision does not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(c) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 3. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant

immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, medical practitioner, nonmedical practitioner, or an employee of a child protective agency may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

This subdivision does not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 3.5. Section 1.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2709. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2709, in which case Section 11165 of the Penal Code, as amended by AB 2709, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. Section 3 of this bill incorporates amendments to Section

11172 of the Penal Code proposed by both this bill and AB 2710. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11172 of the Penal Code, and (3) this bill is enacted after AB 2710, in which case Section 2 of this bill shall not become operative.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1171

An act to amend Section 1770 of the Civil Code, relating to consumer protection.

[Approved by Governor September 15, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1770 of the Civil Code is amended to read:

1770. The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

(a) Passing off goods or services as those of another.

(b) Misrepresenting the source, sponsorship, approval, or certification of goods or services.

(c) Misrepresenting the affiliation, connection, or association with, or certification by, another.

(d) Using deceptive representations or designations of geographic origin in connection with goods or services.

(e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have.

(f) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.

(g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(h) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(i) Advertising goods or services with intent not to sell them as advertised.

(j) Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(k) Advertising furniture without clearly indicating that it is unassembled if such is the case.

(*l*) Advertising the price of unassembled furniture without clearly indicating the assembled price of such furniture if the same furniture is available assembled from the seller.

(m) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.

(n) Representing that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law.

(o) Representing that a part, replacement, or repair service is needed when it is not.

(p) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.

(q) Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(r) Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction with a consumer.

(s) Inserting an unconscionable provision in the contract.

(t) Advertising that a product is being offered at a specific price plus a specific percentage of that price unless (1) the total price is set forth in the advertisement, which may include, but is not limited to, shelf tags, displays, and media advertising, in a size larger than any other price in that advertisement, and (2) the specific price plus a specific percentage of that price represents a markup from the seller's costs or from the wholesale price of the product. This subdivision shall not apply to in-store advertising by businesses which are open only to members or cooperative organizations organized pursuant to Division 3 (commencing with Section 12000) of Title 1 of the Corporation Code where more than 50 percent of purchases are made at the specific price set forth in the advertisement.

CHAPTER 1172

An act to amend Section 68079 of the Education Code, relating to postsecondary education.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 68079 of the Education Code is amended to read:

68079. A student who is a full-time employee of an institution or of any state agency, or a student who is a child or spouse of a full-time employee of an institution or of any state agency, may be entitled to resident classification, as determined by the governing boards, until he or she has resided in the state the minimum time necessary to become a resident.

For purposes of this section, "employee of any state agency" means a person employed by the state on or after the effective date of this section, who is assigned to work outside of the state.

CHAPTER 1173

An act to amend Section 5011 of the Public Resources Code, relating to the state park system.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 5011 of the Public Resources Code is amended to read:

5011. Any person receiving aid to the aged, blind, or disabled under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, any person over 62 years of age whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount specified in subdivision (c) of Section 12200 of the Welfare and Institutions Code for a single person or in subdivision (d) of that section for married persons, as adjusted pursuant to Section 12201 of that code, or any person receiving aid to families with dependent children under the provisions of Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, upon application therefor and payment of five dollars ($5.00) to the Department of Parks and Recreation, shall be issued a "Golden Bear Pass" which is valid for the specified year and which entitles the bearer and spouse to free use on any day of the day-use facilities in units of the state park system, except Hearst San Simeon State Historical Monument, Sutter's Fort State Historic Park, and the California State Railroad Museum, under limitations as may be determined by departmental regulation regarding peak hours and contractual arrangements with

vendors. The pass shall entitle the bearer and spouse to have access only to day-use facilities and not to the use of any other facilities.

The department shall not grant half price privileges or offer any discount for the use of state park system facilities on the basis of the pass authorized by this section.

Notwithstanding the preceding paragraph, the department shall develop and implement, on or before January 1, 1986, a senior discount program for the use of state park system facilities.

CHAPTER 1174

An act to amend Sections 7029, 7030, 7068.2, 7076, 7083, 7090, 7115, 7117.5, 7141.5, 7145, and 7153.3 of, and to add Sections 7090.1 and 7111.1 to, the Business and Professions Code, relating to contractors.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984]

The people of the State of California do enact as follows:

SECTION 1. Section 7029 of the Business and Professions Code is amended to read:

7029. A joint venture license is a license issued to any combination of individuals, corporations, partnerships, or other joint ventures, each of which holds a current, active license in good standing. A joint venture license may be issued in any classification in which at least one of the entities is licensed. An active joint venture license shall be automatically suspended by operation of law during any period in which any member of the entity does not hold a current, active license in good standing.

SEC. 2. Section 7030 of the Business and Professions Code is amended to read:

7030. Every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which such person is a prime contractor:

"Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, 3132 Bradshaw Road, Sacramento, California. Mailing Address: P.O. Box 26000, Sacramento, California 95826."

SEC. 3. Section 7068.2 of the Business and Professions Code is amended to read:

7068.2. If the responsible managing officer or responsible managing employee disassociates from the licensed entity, the licensee, or the qualifier shall notify the registrar in writing, and the licensee shall replace the qualifier, within 90 days from the date of disassociation.

To replace a responsible managing officer or responsible managing

employee, the licensee shall file an application as prescribed by the registrar, accompanied by the fee fixed by this chapter, designating an individual to qualify as required by this chapter.

Upon failure to replace the qualifier within 90 days of the disassociation the license shall be automatically suspended or the classification removed at the end of the 90 days.

If the licensee or his responsible managing officer or responsible managing employee qualifying for the license or classification fails to notify the registrar in writing or replace the qualifier within 90 days, the license shall be automatically suspended or the classification removed retroactively to 90 days from the date of disassociation.

The registrar may review and accept the petition of a licensee who disputes the date of disassociation or who has failed to notify and replace the qualifier within the prescribed time, upon a showing of good cause by the contractor. This petition shall be received within 90 days from the date of the board's notice of suspension.

SEC. 4. Section 7076 of the Business and Professions Code is amended to read:

7076. (a) An individual license shall be canceled upon the death of a person licensed as an individual. A partnership license shall be canceled upon the death or disassociation of a partner. A joint venture license shall be canceled upon the cancellation, revocation or withdrawal of any of its entity licenses.

However, for an individual license, an immediate member of the family of the deceased licensee or for a partnership license, the remaining partner or partners, or for a joint venture, the remaining entities of the joint venture, shall be entitled to continue in business under the license for a reasonable length of time to be determined by rules of the board, provided application for permission is made to the registrar within 90 days after the event causing cancellation has occurred, and such application is approved by the registrar. Registrar approval of the continuance of an individual license may be contingent upon meeting the bond requirements of Sections 7071.5 and 7071.6 within 90 days of notification by the board of such requirement.

In the case of a continuance granted to a partnership after the disassociation of a partner or a continuance granted to a joint venture, the provisions of this section shall apply only to those contracts entered into or to such business on which performance has been commenced, by the partnership or joint venture, before the event occurred which was cause for cancellation.

A license continued in accordance with this section is subject to all other provisions of this chapter.

(b) A corporation license shall be canceled effective as of the date the corporation dissolves, merges out of existence, or surrenders its right to do business in California.

(c) The registrar shall review and accept the petition of a licensee who disputes the date of disassociation or cancellation upon a showing of good cause. This petition shall be received within 90 days

of the board's official notice of cancellation.

SEC. 5. Section 7083 of the Business and Professions Code is amended to read:

7083. All licensees shall notify the registrar in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in address, personnel, name style, bond exemption pursuant to Section 7071.9 or exemption to qualify multiple licenses pursuant to Section 7068.1.

SEC. 6. Section 7090 of the Business and Professions Code is amended to read:

7090. The registrar may upon his or her own motion and shall upon the verified complaint in writing of any person, investigate the actions of any applicant, contractor, or home improvement salesperson within the state and may deny the licensure or the renewal of licensure of, or cite, temporarily suspend, or permanently revoke any license or registration if the applicant, licensee, or registrant, is guilty of or commits any one or more of the acts or omissions constituting causes for disciplinary action.

The registrar may proceed to take disciplinary action as in this article provided against an applicant or a person licensed or registered under the provisions of this chapter even though the grounds or cause for such disciplinary action arose upon projects or while the applicant, licensee, or registrant was acting in a capacity or under circumstances or facts which, under the provisions of Sections 7044, 7045, 7046, and 7048, would otherwise exempt the person or his or her operations from the provisions of this chapter.

Notwithstanding any provision of this chapter, if the registrar finds that any contractor licensed or registered under the provisions of this chapter has willfully and deliberately violated any state or local law relating to the issuance of building permits, other than failure to obtain a county or city permit for repair, maintenance, and adjustment of equipment where such repair, maintenance, or adjustment is valued at less than five hundred dollars ($500) for labor or materials, or where the repair of a part or component part of mechanical equipment consists of replacing such part or component part of mechanical equipment in need of repair with the identical part or component part, the registrar shall suspend or revoke the contractor's license.

For the purpose of this section, there shall be a rebuttable presumption affecting the burden of proof that construction performed without a permit is a willful and deliberate violation.

SEC. 7. Section 7090.1 is added to the Business and Professions Code, to read:

7090.1. Notwithstanding any other provisions of law, the failure to pay a civil penalty or comply with an order of correction once it has become final, shall be grounds for denial of, or the refusal to renew, a license.

SEC. 8. Section 7111.1 is added to the Business and Professions

Code, to read:

7111.1. The failure of, or refusal by, a licensee to respond to a written request of the registrar to cooperate in the investigation of a complaint against that licensee constitutes a cause for disciplinary action.

SEC. 9. Section 7115 of the Business and Professions Code is amended to read:

7115. (a) Failure in any material respect to comply with the provisions of this chapter, or any rule or regulation adopted pursuant to this chapter, constitutes a cause for disciplinary action.

(b) Failure of a licensee, applicant, or registrant subject to the provisions of this chapter, who without lawful excuse, delays, obstructs, or refuses to comply with a written request of the registrar or designee for information or records, to provide that information or make available those records, when the information or records are required in the attempt to discharge any duty of the registrar, constitutes a cause for disciplinary action.

SEC. 10. Section 7117.5 of the Business and Professions Code is amended to read:

7117.5. (a) Acting in the capacity of a contractor under any license which has been made inactive, as provided in Section 7076.5, constitutes a cause for disciplinary action.

(b) Acting in the capacity of a contractor under any license that has been suspended for any reason constitutes a cause for disciplinary action.

SEC. 11. Section 7141.5 of the Business and Professions Code is amended to read:

7141.5. The registrar may grant the retroactive renewal of a license if the licensee requests the retroactive renewal in a petition to the registrar, files an application for renewal on a form prescribed by the registrar, and pays the appropriate renewal fee and delinquency fee prescribed by this chapter. This section shall only apply for a period not to exceed 90 days from the due date and only upon a showing by the contractor that the failure to renew was due to circumstances beyond the control of the licensee.

SEC. 12. Section 7145 of the Business and Professions Code is amended to read:

7145. The registrar may refuse to renew a license for the failure or refusal by the licensee to complete the renewal application prescribed by the registrar. If a licensee fails to return an application for renewal which was rejected for insufficiency or incompleteness within 90 days from the original date of rejection, the application and fee shall be deemed abandoned. Any application abandoned may not be reinstated. However, the applicant may file another application accompanied by the required fee.

The registrar may review and accept the petition of a licensee who disputes the invalidation of his or her application for renewal upon a showing of good cause. This petition shall be received within 90 days from the date the renewal application is deemed abandoned.

SEC. 13. Section 7153.3 of the Business and Professions Code is amended to read:

7153.3. (a) To renew a registration, the registrant shall before the time at which the registration would otherwise expire, apply for renewal on a form prescribed by the registrar and pay a renewal fee prescribed by this chapter.

(b) An application for renewal of registration is delinquent if the application is not postmarked by the date on which the registration would otherwise expire. A registration may, however, still be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the registrar and the payment of the renewal fee prescribed by this chapter and a delinquent renewal penalty in the amount of twenty-five dollars ($25). If a registration is not renewed within three years, the person shall make application for registration pursuant to Section 7153.1.

(c) The registrar may refuse to renew a registration for failure by the registrant to complete the application for renewal of registration. If a registrant fails to return the application rejected for insufficiency or incompleteness within 90 days from the original date of rejection, the application and fee shall be deemed abandoned. Any application abandoned may not be reinstated. However, the person may file a new application for registration pursuant to Section 7153.1.

The registrar may review and accept the petition of a person who disputes the abandonment of his or her renewal application upon a showing of good cause. This petition shall be received within 90 days of the date the application for renewal is deemed abandoned.

CHAPTER 1175

An act to add Section 367f to the Penal Code, relating to organ transplants.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 367f is added to the Penal Code, to read:

367f. (a) Except as provided in subdivisions (d) and (e), it shall be unlawful for any person to knowingly acquire, receive, sell, promote the transfer of, or otherwise transfer any human organ, for purposes of transplantation, for valuable consideration.

(b) Except as provided in subdivisions (d), (e), and (f), it shall be unlawful to remove or transplant any human organ with the knowledge that the organ has been acquired or will be transferred or sold for valuable consideration in violation of subdivision (a).

(c) For purposes of this section, the following definitions apply:

(1) "Human organ" includes, but is not limited to, a human kidney, liver, heart, lung, pancreas, or any other human organ or nonrenewable or nonregenerative tissue except plasma and sperm.

(2) "Valuable consideration" means financial gain or advantage, but does not include the reasonable costs associated with the removal, storage, transportation, and transplantation of a human organ, or reimbursement for those services, or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(d) No act respecting the nonsale donation of organs or other nonsale conduct pursuant to or in the furtherance of the purposes of the Uniform Anatomical Gift Act, Chapter 3.5 (commencing with Section 7150) Part 1 of Division 7 of the Health and Safety Code, including acts pursuant to anatomical gifts offered under Section 12811 of the Vehicle Code, shall be made unlawful by this section.

(e) This section shall not apply to the person from whom the organ is removed, nor to the person who receives the transplant, or those persons' next-of-kin who assisted in obtaining the organ for purposes of transplantations.

(f) A licensed physician and surgeon who transplants a human organ in violation of subdivision (b) shall not be criminally liable under that subdivision if the act is performed under emergency and life-threatening conditions.

(g) Any person who violates subdivision (a) or (b) shall be punished by a fine not to exceed fifty thousand dollars ($50,000), or by imprisonment in the state prison for three, four, or five years, or both.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1176

An act to add Chapter 14 (commencing with Section 76001) to Division 22 of the Food and Agricultural Code, relating to cherries, and making an appropriation therefor.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 14 (commencing with Section 76001) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 14. CALIFORNIA CHERRY COMMISSION

Article 1. Declaration and General Provisions

76001. The inability of cherry producers to maintain or expand present markets for California cherries may result in unnecessary economic waste.

76002. These conditions vitally concern the health, peace, safety, and general welfare of the people of this state. It is, therefore, in the public interest to protect and enhance the reputation of California cherries in intrastate, interstate, and foreign markets.

76003. The promotional, educational, economic, and marketing research, and any similar activities authorized by this chapter will serve to expand existing markets, create new markets for California cherries, and prevent economic waste.

76004. It is hereby declared to be the policy of this state to aid in preventing economic waste in the marketing of cherries, to develop more efficient and equitable methods in marketing, and to provide production research.

76005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, and production research.

76006. No action taken by the commission, nor by any individual in accordance with this chapter or with the rules and regulations adopted under the chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

76021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

76022. "Cherry" means any variety of cherry produced in the state, including any cherries produced in this state and delivered to a processor for processing into any cherry product.

76023. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to the provisions of this chapter.

76024. "Commission" means the California Cherry Commission.

76025. "Commissioner" means any member of the commission.

76026. "Grower-handler" means any person who engages in the operation of selling, marketing, or distributing cherries which he or she has produced.

76027. "Shipper" means any person who engages in the operation of selling, marketing, or distributing cherries which he or she has produced or purchased or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. "Shipper" does not include a retailer, except a retailer who purchases or acquires from, or handles on behalf of any producer, cherries which were not previously subject to regulation by the commission.

76028. "Ex officio member" means a nonvoting member of the commission.

76029. "Processor" means every person and every plant within this state to whom or to which cherries are delivered for the purpose of drying, dehydrating, canning, pressing, crushing, extracting, cooking, quick freezing, or for use in producing or manufacturing a product or manufactured article.

76030. "Marketing research" means any research relating to the sale of cherries.

76031. "Marketing season" or "fiscal year" means the period beginning on January 1 of any year and extending through the last day of December of the same year.

76032. "Process" means to engage in the business of a processor.

76033. "Producer" or "grower" means any person who is engaged within this state in the business of producing or causing to be produced, either for fresh market or for processing, cherries of any variety, and who upon request, provides proof of commodity sale during the preceding crop year.

76034. "Production research" means any research related to the production, harvest, and postharvest handling of cherries, other than marketing research.

Article 3. The California Cherry Commission

76051. (a) There is in state government the California Cherry Commission. The commission is composed of eight cherry producers or grower-handlers who are not shippers, two cherry shippers, and may have one public member. Producers and grower-handlers within the respective districts shall elect two producers or grower-handlers from District 1, one producer or grower-handler from District 2, three producers or grower-handlers from District 3, one producer or grower-handler from District 4, and one producer or grower-handler from District 5.

(b) Cherry shippers shall elect two shipper members.

(c) A public member may be appointed to the commission by the director from the nominees recommended by the commission.

(d) The director and other appropriate individuals as determined

by the commission shall be nonvoting ex officio members of the commission.

76052. (a) The districts consist of the following:

(1) District 1 is all that area in San Joaquin County east of Jack Tone Road or any extension of that road.

(2) District 2 is all that area in San Joaquin County north of Live Oak Road and west of Jack Tone Road or any extension of that road.

(3) District 3 is all that area in San Joaquin County not included in Districts 1 and 2, and all of Stanislaus County.

(4) District 4 is all of San Benito and Santa Clara Counties.

(5) District 5 is all other counties.

(b) The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, to insure proper representation by producers. The boundaries need not coincide with county lines.

76053. When the director is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days after receiving the decision. The response may be a request that additional information be provided.

76054. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease the activities or functions or to make any corrections required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the commission complies with the director.

(c) Actions of the commission in violation of the written notice are without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he or she determines are not in the public interest or are in violation of this chapter, and the reasons for requiring a cessation or correction of specific existing or proposed activities or functions. The director may make recommendations that will make the activities or functions acceptable.

76055. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

76056. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities under this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in

restricting activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to the action.

76057. Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same manner as the member. An alternative member shall, in the absence of the member for whom he or she is an alternate, serve in place of the member on the commission, and shall have and be able to exercise all the rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member of the commission until a successor is elected and has qualified.

76058. Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his or her position due to a change in status making that member ineligible to serve, or due to death, removal or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission. However, the person chosen shall fulfill all the qualifications set forth in this article as required for the member whose office he or she is to fill. Qualifications of any person to fill a vacancy on the commission shall be certified in writing to the director. The director shall notify the commission if he or she determines that the person is not qualified.

76059. (a) Any producer member, grower-handler member, or the member's alternate on the commission shall represent a producer who has a financial interest in producing, or causing to be produced, cherries for market or processing. The qualifications of a producer member, grower-handler member, and an alaternate producer or grower-handler member shall be maintained during the entire term of office.

(b) Any shipper member or his or her alternate shall represent a shipper who has a financial interest in handling cherries for market or processing. The qualifications of a shipper member and an alternate shipper member shall be maintained during the entire term of office.

(c) Not more than one such producer member or shipper member shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization.

76060. A public member or his or her alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. A public member shall not have any financial interest in the cherry industry.

76061. The term of office of all commissioners, except any ex officio member, shall be two years from the date of their election and until their successors are qualified. However, of the first members of the commission, one-half of the producers or grower-handlers and shippers shall serve for one year, and one-half of the producers or

grower-handlers and shippers shall serve for two years, with the determination of term of each such member to be made by lot at the time of election. Terms of office of each commissioner shall be limited to four consecutive terms.

76062. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissable in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

76063. A quorum of the commission shall be any six voting commissioners. Except for Sections 76052 and 76182, the vote of the majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.

76064. The director or his or her representative shall be notified and may attend meetings of the commission, including committee meetings.

76065. No commissioner or member of a committee established by the commission shall receive a salary. Each commissioner, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

76066. All money received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in any bank that the commission may designate and shall be disbursed by order of the commission through any agent or agents that it may designate for that purpose. Any such agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the state in favor of the commission, in the amount of not less than twenty-five thousand dollars ($25,000).

76067. (a) The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission.

(b) No member of the commission or alternate member, or any employee or agent therefor, shall be personally liable on the contracts of the commission nor shall a commissioner, alternate member, or employee of the commission be responsible individually in any way to any producer, processor, shipper, or grower-handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee,

except for his or her own individual acts of dishonesty or crime. No commissioner or alternate member shall be held responsible individually for any act or omission of any member of the commission. The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner.

Article 4. Powers and Duties of the Commission

76081. The powers and duties of the commission include, but are not limited to, all of the powers and duties enumerated in this article.

76082. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including rules for appeals from any bylaw, rule, regulation, or order of the commission.

76083. The commission may administer and enforce this chapter, and do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

76084. The commission may appoint its own officers, including a chairman, one or more vice chairmen, and any other officers that it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

76085. The commission may employ a manager to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that are necessary to carry out the provisions of this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission and the director. If the manager engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission.

(b) In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

76086. The commission may fix the compensation for all employees of the commission.

76087. The commission may appoint committees composed of both members and nonmembers of the commission, such as a processor or shipper advisory committee, to advise the commission in carrying out the provisions of this chapter.

76088. The commission may establish offices and incur expenses, and enter into any and all contracts and agreements, and create any liabilities, and borrow any funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the

proper administration and enforcement of this chapter and the performance of its duties.

76089. (a) The commission may keep accurate books, records, and accounts of all its dealings, which books, records, and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director.

(b) The audit shall be made a part of an annual report to all producers of cherries, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as he determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission. The Department of Finance may audit books, records, and accounts of the commission at any time.

76090. The commission may promote the sale of cherries by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for cherries, and also may educate and instruct the public with respect to the uses, healthful properties, and nutritional value of cherries.

76091. The commission may educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling cherries; make market surveys and analyses; present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of cherries.

76092. The commission may make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of cherries.

76093. The commission may conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from research or elsewhere, respecting cultural and production practices, and marketing and distribution of cherries. In connection with the research, the commission may accept contributions of, or match, private, state, or federal funds that may be available for these purposes, and employ or make contributions of funds to other persons or state or federal agencies conducting this research.

76094. The commission may publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the cherry industry, to producers, shippers, grower-handlers, and processors.

76095. The commission may establish an assessment rate to defray operating costs of the commission.

76096. The commission may establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to Section 76086.

76097. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized under this chapter, including advertising, promotion, marketing research, and production research.

76098. The commission may manage, if requested by an advisory board, a board of directors, or any other authorized agent, any governmental program establishing grades and standards for the cherry industry.

76099. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

Article 5. Implementation and Voting Procedures

76111. (a) Within 90 days after the effective date of this chapter, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the director shall require that processors, shippers, county agricultural commissioners, and cherry producers submit the names, mailing addresses, and district numbers of all cherry producers who produce cherries and the volume shipped by each cherry producer. The request for the information shall be in writing. The list shall be filed within 90 days following receipt of the written notice.

(b) Any producer of cherries whose name does not appear upon the director's list of producers affected, may have his or her name established on the list by filing with the director a signed statement, identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments under this chapter.

76112. The provisions of this chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum conducted by the director, that at least 40 percent of the total number of producers from the list established by the director, pursuant to this article, participated and that either of the following resulted.

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed a majority of the total quantity of cherries in the preceding season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed 65 percent or more of the total quantity of cherries in the preceding season by all of the producers who voted in the referendum.

76113. (a) The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional

procedures as may be necessary to conduct the referendum.

(b) If the initial period established is less than 60 days, the director may extend the period. However, the total referendum period may not exceed 60 days.

76114. Nonreceipt of a ballot shall not invalidate a referendum.

76115. If the director finds that a favorable vote has been given as provided in this article, he or she shall certify and give notice of the favorable vote to all producers whose names and addresses may be on file.

76116. If the director finds that a favorable vote has not been given as provided in this article, he or she shall so certify and declare all provisions of this chapter inoperative.

76117. Upon certification of the commission, the director shall call meetings of producers, grower-handlers, and shippers in each district for the purpose of nominating and electing persons for appointment to the commission by the director. All producers, grower-handlers, and shippers on the director's list shall be given written notice of the election meetings at least 15 days prior to the meeting date.

76118. To be eligible for election to the commission, producer, grower-handler, and shipper nominees must present to the director a nomination petition with signatures of at least six eligible producers, grower-handlers, or shippers from the district from which the nominee is seeking election.

76119. Subsequent to the first election of commissioners pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.

76120. (a) Prior to the referendum vote conducted by the director pursuant to this article, the proponents of the commission shall deposit with the director any amounts that the director may deem necessary to defray the expenses of preparing the necessary lists and information and conducting the vote. Any funds not used in carrying out the provisions of Section 76112 shall be returned to the proponents of the commission who deposited the funds with the director.

(b) Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out the provisions of this article, and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

76141. The commission shall, not later than April 20 of each year, establish the assessment for the following 12 months, which shall not exceed thirty cents ($0.30) per 18-pound container or its equivalent in volume in fresh shipping cherries, or six-tenths of one cent ($0.006) per pound for processing cherries.

76142. The provisions of this chapter do not apply to cherries produced for the producer's home use or where the cherries are used only for ornamental purposes. However, the producer shall file an affidavit with the commission establishing that his or her cherries are not produced for commercial purposes. In any event, no production of cherries in excess of one acre is exempt from the assessment under this article.

76143. (a) Every processor, shipper, and grower-handler shall keep a complete and accurate record of all cherries processed, shipped, or grower handled by him or her, with the name of the producer whose cherries were processed, shipped, or handled. The records shall be in simple form and contain any information that the commission prescribes.

(b) The records shall be kept by the processor, shipper, or grower-handler for a period of two years and offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

76144. All proprietary information obtained by the commission or the director from producers, processors, shippers, or grower-handlers is confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, crop value, and any other related information which is required for reports to governmental agencies, financial reports to the commission, or aggregate sales and inventory information, and any other such information which the processors, shippers, or grower-handlers request from the commisson to receive in total, excluding the individual processor, shipper, or grower-handler information, may be disclosed to the commission.

76145. Assessments shall be upon the producer. The first shipper, grower-handler, or processor of cherries being assessed shall deduct the assessment from amounts paid by him or her to the producer, and shall be a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission. Processors shall collect the assessment from the producer, and be trustees of the funds until they are paid to the commission in the same time and manner as provided for a shipper or grower-handler.

76146. Every processor, shipper, and grower-handler is personally liable for the payment of the collected assessments, and failure of the processor, shipper or grower-handler to collect the assessment from any producer shall not exempt any processor, shipper, or grower-handler from liability for these funds.

76147. Any assessment which is levied as provided for in this chapter, is a personal debt of every producer so assessed. Failure of a processor, shipper, or grower-handler to make payment of the collected assessment to the commission shall not relieve the producer of this obligation.

76148. Any producer, processor, shipper, or grower-handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10

percent of the amount of such assessment determined to be due and, in addition, one and one-half percent interest per month on the unpaid balance.

Article 7. Actions and Penalties

76161. It is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five hundred dollars ($500), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping, processing or handling of cherries, or in the wholesale or retail trade of cherries, to fail or refuse to furnish the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he has received cherries and the quantity received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

76162. The commission shall establish procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for this purpose. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition of the superior court.

76163. The commission shall be empowered to commence civil actions and to utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting the provisions of this chapter and the rules and regulations adopted under this chapter. Upon a favorable verdict for the commission, it is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

Article 8. Continuation or Suspension and Termination

76181. Between January 1, 1990, and December 31, 1990, the commission shall cause a referendum to be conducted among producers pursuant to Article 5 (commencing with Section 76111) to determine whether the operations of provisions of this chapter will be reapproved and continued in effect. If the director finds that a favorable vote has been given, he or she shall so certify and all provisions of this chapter shall remain effective. If the director finds that a favorable vote has not been given, he or she shall so certify and

declare the operation of the provisions of this chapter and the commission suspended upon expiration of the marketing season ending December 31, 1990. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 76184. No bond or security shall be required for any such referendum.

76182. Following a favorable referendum conducted prior to December 31, 1990, a referendum shall be conducted by the commission every fifth year thereafter between January 1 and December 31, following procedures provided by this article, unless a referendum is conducted as the result of a petition pursuant to Section 76183. In that case the referendum shall be every fifth year following the industry petitioned referendum.

76183. Upon a finding by a two-thirds vote of the commission that the operation of the provisions of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operations of this chapter be suspended. However, any such suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with him or her requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding season, cause a referendum to be conducted among the listed producers to determine if the operation and the operations of the commission shall be suspended. The director shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration. The director may prescribe any additional procedures that may be necessay to conduct the referendum. At the close of the established referendum period, the director shall tabluate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director, participate in the referendum, the director shall continue the operation of this chapter, if he or she finds either one of the following has occurred:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed a majority or more of the total quantity of cherries marketed in the preceding marketing seasons by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of continuation, and the producers so voting marketed 65 percent or more of the total quantity of cherries marketed in the preceding season by all of the producers who voted in the referendum.

76184. After the effective date of suspension of the operation of this chapter and of the commission, the operations of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessments and not required to defray the

expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any such moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the University of California for continued research on cherries.

76185. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1177

An act to add Title 1.6E (commencing with Section 1789.10) to Part 4 of Division 3 of the Civil Code, relating to credit services.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Title 1.6E (commencing with Section 1789.10) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6E. CREDIT SERVICES

1789.10. This title shall be known and may be cited as the "Credit Services Act of 1984."

1789.11. The Legislature finds and declares that:

(a) The ability to obtain and use credit has become of great importance to consumers, who have a vital interest in establishing and maintaining their credit worthiness and credit standing. As a result, consumers who have experienced credit problems may seek assistance from credit services organizations which offer to obtain credit or improve the credit standing of such consumers.

Certain advertising and business practices of some credit services organizations have worked a financial hardship upon the people of this state, often those who are of limited economic means and inexperienced in credit matters. Credit services organizations have significant impact upon the economy and well-being of this state and its people.

(b) The purposes of this title are to provide prospective buyers of services of credit services organizations with the information necessary to make an intelligent decision regarding the purchase of those services and to protect the public from unfair or deceptive advertising and business practices.

(c) This title shall be construed liberally to achieve these purposes.

1789.12. As used in this title:

(a) "Credit services organization" means a person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that he or she can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer's credit record, history, or rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing advice or assistance to a buyer with regard to either paragraph (1) or (2).

"Credit services organization" does not include any of the following:

(1) Any person organized, chartered, or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an official or agency of this state or the United States.

(2) Any bank or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(3) Any nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) Any person licensed as a prorater by the Department of Corporations when the person is acting within the course and scope of that license.

(5) Any person licensed as a real estate broker by this state where the person is acting within the course and scope of that license.

(6) Any person licensed to practice law in this state where the person renders services within the course and scope of his or her practice as an attorney at law.

(7) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(b) "Buyer" means any natural person who is solicited to purchase or who purchases the services of a credit services

organization.

(c) "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes.

(d) "Person" includes an individual, corporation, partnership, joint venture, or any business entity.

1789.13. A credit services organization, and its salespersons, agents, and representatives who sell or attempt to sell the services of a credit services organization, shall not do any of the following:

(a) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for or on behalf of the buyer, unless the credit services organization has, in conformity with Section 1789.18, either obtained a surety bond issued by a surety company admitted to do business in this state or established a trust account at a federally insured bank or savings and loan association located in this state. If a credit services organization is in compliance with this subdivision, the salesperson, agents, and representatives who sell the services of such organization shall not be required to obtain the surety bond or establish the trust account provided for by this title.

(b) Charge or receive any money or other valuable consideration solely for referral of the buyer to a retail seller who will or may extend credit to the buyer, if the credit which is or will be extended to the buyer is upon substantially the same terms as those available to the general public.

(c) Make, or counsel or advise any buyer to make, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, to a consumer credit reporting agency or to any person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit, with respect to a buyer's credit worthiness, credit standing, or credit capacity.

(d) Make or use any untrue or misleading representations in the offer or sale of the services of a credit services organization or engage, directly or indirectly, in any act, practice, or course of business which operates or would operate as a fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization.

1789.14. Prior to the execution of a contract or agreement between the buyer and a credit services organization or prior to the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the buyer a statement in writing, containing all the information required by Section 1789.15. The credit services organization shall maintain on file or microfilm for a period of two years an exact copy of the statement, personally signed by the buyer, acknowledging receipt of a copy of the statement.

1789.15. The information statement shall include all of the

following:

(a) A complete and accurate statement of the buyer's right to review any file on the buyer maintained by any consumer credit reporting agency, and the right of the buyer to receive a copy of that file, as provided by Sections 1785.10 and 1785.15. The statement shall include the statement that a copy of the buyer's file will be furnished free of charge by the consumer credit reporting agency if requested within 30 days of the buyer receiving notice of a denial of credit, and the approximate price the buyer will be charged by the credit reporting agency for a copy of the file.

(b) A complete and accurate statement of the buyer's right to dispute the completeness or accuracy of any item contained in any file on the buyer maintained by any consumer credit reporting agency, as provided by Section 1785.16.

(c) A complete and detailed description of the services to be performed by the credit services organization for or on behalf of the buyer and the total amount the buyer will have to pay, or become obligated to pay, for the services.

(d) If the credit services organization is required to obtain a surety bond or establish a trust account pursuant to Section 1789.13, the statement shall set forth both of the following:

(1) The buyer's right to proceed against the bond or trust account under the circumstances and in the manner set forth in Section 1789.18.

(2) The name and address of the surety company which issued the bond, or the name and address of the depository and the trustee and the account number of the trust account.

1789.16. (a) Every contract between the buyer and a credit services organization for the purchase of the services of the credit services organization shall be in writing, shall be dated, signed by the buyer, and include all of the following:

(1) A conspicuous statement in size equal to at least 10-point bold type, in immediate proximity to the space reserved for the signature of the buyer, as follows:

"You, the buyer, may cancel this contract at any time prior to midnight of the fifth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right."

(2) The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit services organization or to some other person.

(3) A full and detailed description of the services to be performed by the credit services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated date by which such services are to be performed, or estimated length of time for performing such services.

(4) The credit services organization's principal business address and the name and address of its agent, other than the Secretary of State, in the State of California, authorized to receive service of process.

(b) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the contract and easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

"Notice of Cancellation"

"You may cancel this contract, without any penalty or obligation, within five days from the date the contract is signed.

"If you cancel, any payment made by you under this contract will be returned within 15 days following receipt by the seller of your cancellation notice.

"To cancel this contract, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, to _____ at

(name of seller)

_____

(address of seller) (place of business)

not later than midnight _____.

(date)

"I hereby cancel this transaction."

_____ _____

(date) (purchaser's signature)

A copy of the fully completed contract and all other documents the credit services organization requires the buyer to sign shall be given to the buyer at the time they are signed.

1789.17. The seller's breach of a contract under this title or of any obligation arising therefrom shall constitute a violation of this title.

1789.18. If a credit services organization is required to obtain a surety bond or establish a trust account pursuant to Section 1789.13, the following procedures shall be applicable:

(a) If a bond is obtained, a copy of it shall be filed with the office of the Secretary of State. If a trust account is maintained, notification of the depository, the trustee, and the account number shall be filed with the office of the Secretary of State.

(b) The bond or trust account required shall be in favor of the State of California for the benefit of any person who is damaged by any violation of this title. The bond or trust account shall also be in favor of any person damaged by such practices.

(c) Any person claiming against the bond or trust account for a violation of this title may maintain an action at law against the credit services organization and against the surety or trustee. The surety or trustee shall be liable only for actual damages and not the punitive damages permitted under Section 1789.21. The aggregate liability of the surety or trustee to all persons damaged by a credit services organization's violation of this title shall in no event exceed the amount of the trust account or bond.

(d) The bond or the trust account shall be in an amount equal to 5 percent of the total amount of the fees charged buyers by the credit services organization under the contracts entered into between the credit services organization and such buyers during the previous 12 months, but in no case shall the bond be less than five thousand dollars ($5,000), or more than twenty-five thousand dollars ($25,000). The amount required shall be adjusted once a year, no later than the 10th day of the first month of the credit services organization's fiscal year.

1789.19. (a) Any waiver by a buyer of the provisions of this title shall be deemed contrary to public policy and shall be void and unenforceable. Any attempt by a credit services organization to have a buyer waive rights given by this title shall constitute a violation of this title.

(b) In any proceeding involving this title, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

1789.20. (a) Any person who violates any provision of this title is guilty of a misdemeanor. Any superior court of this state shall have jurisdiction in equity to restrain and enjoin the violation of any provision of this title.

The duty to institute actions for violation of this title, including equity proceedings to restrain and enjoin such a violation, is hereby vested in the Attorney General, district attorneys, and city attorneys. The Attorney General, any district attorney, or any city attorney may prosecute misdemeanor actions or institute equity proceedings, or both.

This section shall not be deemed to prohibit the enforcement by any person of any right provided by this or any other law.

(b) The misdemeanor provision of this section does not apply to a seller's breach of a contract subject to this title.

1789.21. Any buyer injured by a violation of this title or by the credit services organization's breach of a contract subject to this title may bring any action for recovery of damages. Judgment shall be entered for actual damages, but in no case less than the amount paid by the buyer to the credit services organization, plus reasonable attorney's fees and costs. An award, if the trial court deems it proper, may be entered for punitive damages.

1789.22. The provisions of this title are not exclusive and do not relieve the parties or the contracts subject thereto from compliance with any other applicable provision of law.

The remedies provided in this title for violation of any section of this title shall be in addition to any other procedures or remedies for any violation or conduct provided for in any other law.

1789.23. If any provision of this title or if any application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons and circumstances shall not be affected thereby.

SEC. 3. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1178

An act to amend Sections 69640, 69641, 69642, 69648, 69649, and 69651 of, and to add Sections 69648.5 and 69655 to, the Education Code, relating to community colleges.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 69640 of the Education Code is amended to read:

69640. It is the intent of the Legislature that the California community colleges recognize the need and accept the responsibility for extending the opportunities for community college education to all who may profit therefrom regardless of economic, social, and educational status. It is the intent and purpose of the Legislature in establishing the Community College Extended Opportunity Programs and Services (EOPS) to encourage local community colleges to establish and implement programs directed to identifying those students affected by language, social, and economic handicaps, to increase the number of eligible EOPS students served, and to assist those students to achieve their educational objectives and goals, including, but not limited to, obtaining job skills, occupational certificates, or associate degrees, and transferring to four-year institutions.

By January 1, 1986, the Board of Governors of the California Community Colleges shall adopt rules and regulations establishing EOPS goals consistent with this article. These goals may include all of the following:

(a) To increase the number and percentage of students enrolled in community colleges who are affected by language, social, and economic disadvantages, consistent with state and local matriculation policies.

(b) To increase the number and percentage of Extended Opportunity Programs and Services (EOPS) students who successfully complete their chosen educational objectives.

(c) To increase the number and percentage of EOPS students who are successfully placed into career employment.

(d) To increase the number and percentage of EOPS students who transfer to four-year institutions following completion of the related educational programs at community college.

(e) To strive to assist community colleges to meet student and employee affirmative action objectives.

(f) To improve the delivery of programs and services to disadvantaged students.

The Legislature further intends that EOPS shall not be viewed as the only means of providing services to nontraditional and disadvantaged students or of meeting student and employee affirmative action objectives.

The Legislature finds that the establishment and development of extended opportunity programs and services are essential to the conservation and development of the cultural, social, economic, intellectual, and vocational resources of the state.

SEC. 2. Section 69641 of the Education Code is amended to read:

69641. The Extended Opportunity Programs and Services (EOPS) provided by a community college shall supplement the regular educational programs of the community college to encourage the enrollment of students handicapped by language, social, and economic disadvantages, and to facilitate the successful completion of their educational goals and objectives. EOPS shall be provided by certificated directors and instructors, as well as by counselors and other support staff approved by the governing board of the community college district. Participation in an extended opportunity program or service shall not preclude participation in any other program offered by the community college.

SEC. 3. Section 69642 of the Education Code is amended to read:

69642. Definitions:

(a) "Board" means the Board of Governors of the California Community Colleges.

(b) "District" means any community college district in California that maintains one or more community colleges.

(c) "College" means a community college established by the governing board of a community college district authorized to provide community college instruction.

(d) "Extended opportunity program" means a special program or method of instruction designed to facilitate the language, educational, or social development of a student and increase his or her potential for success in the college.

(e) "Extended opportunity services" means a program of assistance designed to aid students with socioeconomic handicaps to permit them to enroll in and participate in the educational activities of the college, and to progress toward completing their educational goals and objectives, including, but not limited to, graduation from college.

SEC. 4. Section 69648 of the Education Code is amended to read:

69648. By January 1, 1986, the board shall adopt rules and regulations necessary to implement this article, including rules and

regulations which do all of the following:

(a) Prescribe the procedure by which a district shall identify a student eligible for extended opportunity programs or services on the basis of the student's language, social, or economic disadvantages.

(b) Establish minimum standards for the establishment and conduct of extended opportunity programs and services. The standards may include, but shall not be limited to, guidelines for all of the following:

(1) The provision of staffing and program management.

(2) The establishment of a documentation and data collection system.

(3) The establishment of an EOPS advisory committee.

(4) The provision of recruitment and outreach services.

(5) The provision of cognitive and noncognitive assessment, advising, and orientation services.

(6) The provision of college registration.

(7) The provision of basic skills instruction, seminars, and tutorial assistance.

(8) The provision of counseling and retention services.

(9) The provision of transfer services.

(10) The provision of direct aid.

(11) The establishment of objectives to achieve the goals specified in Section 69640, and objectives to be applied in implementing extended opportunity programs and services.

(c) The standards specified in subdivision (b) shall be adopted and implemented by the commencement of the 1985–86 academic year.

(d) Subject to the approval of the chancellor, establish procedures for the review and evaluation of the districts' extended opportunity programs and services.

(e) Require the submission of such reports by districts as will permit the evaluation of the program and services offered.

SEC. 5. Section 69648.5 is added to the Education Code, to read:

69648.5. The chancellor may use up to 1 percent of the funds appropriated for the EOPS program by the annual Budget Act to monitor program activities and to conduct the evaluation of EOPS offered by districts.

SEC. 6. Section 69649 of the Education Code is amended to read:

69649. (a) The governing board of a community college district may, with the approval of the board, establish an extended opportunity program.

Except as provided in subdivision (b), in order to be eligible to receive state funding, the program shall meet the minimum standards established pursuant to subdivision (b) of Section 69648.

(b) The chancellor may waive any or all of the minimum standards established pursuant to subdivision (b) of Section 69648 if the chancellor determines that unusual circumstances which merit a waiver exist.

SEC. 7. Section 69651 of the Education Code is amended to read:

69651. The governing board of a community college district shall not use any funds received from the state for the operation and administration of extended opportunity programs and services to supplant district resources, programs, or services authorized by Sections 69649 and 69650. The governing board may use those funds to meet the matching requirements to receive federal funds, or funds granted by nonprofit foundations, designated for the same purposes, for extended opportunity programs and services, as defined by Section 69641.

SEC. 8. Section 69655 is added to the Education Code, to read:

69655. (a) Pursuant to Section 69648, the Chancellor of the California Community Colleges shall determine the elements of a statewide data base for the Community College Extended Opportunity Programs and Services, which shall be used for periodic evaluation of the programs and services. The data base shall include all information necessary to demonstrate the statewide progress towards achieving the program goals identified in Section 69640, and program objectives adopted pursuant to Section 69648 including, but not limited to, all of the following:

(1) The annual number of extended opportunity programs and services (EOPS) students and non-EOPS students who complete degree or certificate programs, transfer programs, or other programs, as determined by state and local matriculation policies.

(2) The annual number of EOPS and non-EOPS students who transfer to institutions which award the baccalaureate degree. In implementing this paragraph, the chancellor shall work in cooperation with the California Postsecondary Education Commission, the President of the University of California, the Chancellor of the California State University, and the Association of Independent Colleges and Universities to establish methods for obtaining the necessary data.

(3) The annual number of EOPS and non-EOPS students completing occupational programs who find career employment.

In implementing this paragraph, the chancellor shall integrate the data collection with existing data collection requirements pertaining to vocational education.

(b) Beginning in January, 1987, the chancellor shall annually report to the Legislature regarding the number of students served by the Community College Extended Opportunity Programs and Services and the number of EOPS students who achieve their educational objectives.

(c) A task force under the direction of the California Postsecondary Education Commission shall be established to evaluate existing supplemental services and financial assistance provided for community college EOPS students who transfer to public four-year institutions, and to make recommendations for modification of those services and assistance programs necessary to facilitate the transfer process. The task force shall be comprised of representatives from all of the following:

(1) The California Postsecondary Education Commission.
(2) The University of California.
(3) The California State University.
(4) The community colleges.
(5) The Legislative Analyst.
(6) The Department of Finance.

The task force shall submit a report summarizing its findings and the plan to the fiscal committees of the Legislature on or before February 15, 1985.

SEC. 9. It is the intent of the Legislature that, commencing with the 1986–87 fiscal year, and each fiscal year thereafter, a sum shall be appropriated through the annual Budget Act to the Chancellor of the California Community Colleges which is sufficient to maintain and operate the statewide data base required pursuant to Section 69655 of the Education Code, and to reimburse community college districts for costs of collecting the data for that data base.

CHAPTER 1179

An act to amend Section 1000.1 of the Penal Code, relating to diversion.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1000.1 of the Penal Code is amended to read:

1000.1. (a) If the district attorney determines that this chapter may be applicable to the defendant, he shall advise the defendant and his attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation.

(2) A general explanation of the roles and authorities of the probation department, the district attorney, the community program, and the court in the diversion process.

(3) A clear statement that the court may decide in a hearing not to divert the defendant and that he may have to stand trial for the alleged offense.

(4) A clear statement that should the defendant fail in meeting the terms of his diversion, or should he be convicted of a misdemeanor which reflects the divertee's propensity for violence, or should the divertee be convicted of any felony, he may be required, after a court hearing, to stand trial for the original alleged offense.

(5) An explanation of criminal record retention and disposition

resulting from participation in the diversion and the divertee's rights relative to answering questions about his arrest and diversion following successful completion of the diversion program.

(b) If the defendant consents and waives his right to a speedy trial, the district attorney shall refer the case to the probation department. The probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, treatment history, if any, demonstrable motivation, and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs or programs of the probation department the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court. The court shall make the final determination regarding education, treatment, or rehabilitation for the defendant.

(c) No statement, or any information procured therefrom, made by the defendant to any probation officer or drug treatment worker, which is made during the course of any investigation conducted by the probation department or drug treatment program pursuant to subdivision (b), and prior to the reporting of the probation department's findings and recommendations to the court, shall be admissible in any action or proceeding brought subsequent to the investigation.

No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to any probation officer or drug program worker subsequent to the granting of diversion, shall be admissible in any action or proceeding.

In the event that diversion is either denied, or is subsequently revoked once it has been granted, neither the probation investigation nor statements or information divulged during that investigation shall be used in any sentencing procedures.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1180

An act to add Chapter 10 (commencing with Section 28500) to Division 22 of the Health and Safety Code, relating to health.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 10 (commencing with Section 28500) is added to Division 22 of the Health and Safety Code, to read:

CHAPTER 10. SANITARY CONTROL OF SHELLFISH

Article 1. Declaration of Policy and Definitions

28500. The Legislature finds and declares that the public health interest requires that the people of this state be protected from adulterated shellfish grown and harvested in state waters for sale to the public and for introduction into interstate commerce. This protection is a matter of statewide concern and the purpose of this chapter is to establish uniform sanitation standards for the growing waters, harvesting, shucking, packing, repacking, and handling of shellfish and shellstock intended for human consumption.

28501. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) "Shellfish" means native or nonnative bivalve mollusks, which include oysters, rock scallops, clams, and mussels, either fresh or frozen, and either shucked or in the shell.

(b) "Shellstock" means shellfish which remain in their shells.

(c) "Growing area" means any offshore ocean, coastal estuarine, or freshwater area that may be classified by the department for natural shellfish growth or artificial shellfish propagation and includes open seawater systems.

(d) "Approved area" means a shellfish-growing area not adversely affected by sewage or other wastes.

(e) "Conditionally approved area" means a shellfish-growing area that may be occasionally affected by sewage or other wastes.

(f) "Prohibited area" means a shellfish-growing area not certified because of its proximity to a waste discharge or because the area is influenced by other detrimental environmental factors.

(g) "Restricted area" means a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(h) "Other wastes" means wastes, such as, but not limited to, animal, industrial, radiological, and agricultural wastes which would render shellfish unsafe or unfit for human consumption.

(i) "Department" means the State Department of Health Services.

(j) "Director" means the State Director of Health Services.

(k) "Person" includes any individual, partnership, corporation, and association.

(*l*) "Closed area" means an area that the shellfish taken therefrom have been declared to be unsafe or unfit for human consumption.

Article 2. General Requirements

28502. (a) The director may declare any area within the jurisdiction of this state to be a closed area if it is determined that shellfish taken from the growing area may be unsafe or unfit for human consumption.

(b) The director shall close to the taking of shellfish for a period deemed advisable any waters to which shellfish from a closed area may have been transferred.

(c) The director shall establish by order the areas which he or she declares unsafe or unfit for shellfish harvesting and shall modify or revoke the order in accordance with the results of chemical, toxicologic, and bacteriological surveys conducted by the department. The director shall file the order in the office of the department, and shall furnish copies of the orders describing closed areas to the Department of Fish and Game, the State Water Resources Control Board, and to any interested person without charge.

(d) Prior to the director's declaration that shellfish-growing waters may be unsafe and shellfish grown in these waters may not be taken for human consumption, the department shall do all of the following:

(1) Give at least 20 days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subject and issues involved, and the time when, the place where, and the manner in which, interested persons may present their views thereon.

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing. The department shall consider fully all written and oral submissions respecting the proposed action.

(e) If the department finds that the shellfish harvested from an area is unsafe or unfit for human consumption and states in writing its reasons for that finding, it may proceed without prior notice or hearing to take emergency action. The action may be effective for a period of not longer than 30 days, during which time the department shall initiate the procedures contained in subdivision (d).

28503. (a) The department shall adopt rules and regulations regarding all of the following:

(1) The classification and minimum requirements for growing and harvesting areas, for relaying and depuration procedures, and for aquaculture facilities which are used for the cultivation and production of shellfish.

(2) Specifications for plant facilities and for the harvesting, transporting, storing, handling, packing, and repacking of shellfish.

(3) Fees.

(b) The department may adopt any regulations which it determines are necessary to interpret and enforce the provisions of this chapter. The regulations shall be adopted by the department in the manner prescribed by Chapter 3.5 (commenicng with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The rules and regulations shall conform, so far as possible, to the standards which are adopted by the National Shellfish Sanitation Program that pertain to the evaluation of shellfish-growing areas and handling facilities, but shall provide for regulating other wastes or contaminants not covered by the National Shellfish Sanitation Program which would render shellfish unsafe or unfit for human consumption.

28504. (a) The director, or the director's duly authorized agent, shall conduct sanitary surveys of any shellfish growing water as deemed necessary to assure each of the following:

(1) Any shellfish grown in the water is safe as an article of food and meets bacteriological, chemical, and toxicologic standards as prescribed by regulation.

(2) Any shellfish grown in prohibited or restricted areas is either relayed to or depurated in approved water for a period of time as necessary to meet bacteriological, chemical, and toxicologic standards, as prescribed by regulation.

(3) For good cause shown, a shellfish grower or harvester may request the resurvey of restricted or unapproved growing water, and the director, or the director's duly authorized agent, shall conduct the sanitary resurvey.

(b) If it is found that the shellfish and growing water are in compliance with the rules and regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance to the lawful grower or harvester of the shellfish.

28505. It is unlawful for any person to engage in commercial shellfish cultivation or the harvesting for human consumption of shellfish from naturally occurring populations, except as provided for in Sections 5670, 7850, 8500, and 15101 of the Fish and Game Code and in regulations adopted by the department pursuant to this chapter, with regard to growing areas, relaying and depuration procedures, and aquaculture facilities.

28506. The director, or the director's duly authorized agent, may, at any reasonable hour of the day, do any of the following:

(a) Enter and inspect any facility or area used for cultivation, production, depuration, processing, transporting, or sale of shellfish.

(b) Obtain samples of water and shellfish. Upon request, split

samples shall be given to the person from whose property the samples were obtained.

(c) Inspect all shellfish plants and the practices followed in the handling and packaging of shellfish. If it is found that the operator is complying with the rules and regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance.

(d) Cause a reinspection to be made at any time and may revoke the certificate upon refusal of the operator to permit an inspection or free access at all reasonable hours, or upon a finding that the plant is not being operated in compliance with the rules and regulations promulgated under this chapter.

(e) No revocation, suspension, annulment, or withdrawal of any certificate is lawful unless, prior to the institution of department proceedings, the department gave notice by mail, to the certificate holder, of facts or conduct which warrant the intended action, and the certificate holder was given an opportunity to show compliance with all lawful requirements for the retention of the certificate, pursuant to Section 28518.8. This section does not preclude the department from taking immediate action in accordance with subdivision (e) of Section 28502.

28507. It is unlawful for any person to take, sell, offer, or hold for sale any shellfish from an area declared by the director to be unsuitable for harvesting for human consumption, without complying with all rules and regulations promulgated by the department to ensure that the shellfish have been purified.

The intent of this section is not to prohibit the transplanting of shellfish from restricted or prohibited growing areas, if permission for the transplanting is first obtained from the Department of Fish and Game pursuant to Section 237 of Title 14 of the California Administrative Code.

28508. It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish which has not been harvested from a growing area which has been certified by the department or which has not been purified in accordance with Section 28504.

28509. It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish which has not been handled and packaged in accordance with specifications under this chapter, and regulations adopted pursuant to this chapter.

28510. It is unlawful for any person to sell, offer, or hold for sale any shellfish where the facilities for packaging and handling of the shellfish do not comply with regulations promulgated by the department under this chapter.

28511. It is unlawful for any person to operate a shellfish plant engaged in the handling and packaging of shellfish, either shucked or in the shell, without a valid certificate issued by the department for each plant or place of business.

28512. It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish without a label which bears a valid

certificate number and is in compliance with Chapter 4 (commencing with Section 26400) of Division 21.

28513. It is unlawful for any person to sell, offer, or hold for sale any shellfish not in a container bearing a valid certificate number from a state or a nation whose shellfish certification program conforms to the then current Manual of Recommended Practice for Sanitary Control of the Shellfish Industry, issued by the United States Public Health Service.

28514. The provisions of Sections 28512 and 28513, with respect to labeling requirements, shall not apply to any of the following:

(a) Shellstock held in dry storage under refrigerated conditions not for shipment or sale.

(b) Shellstock sold on premises when the sale is the ultimate point of sale.

28515. Any shellfish which are held or offered for sale at retail or for human consumption, and which have not been handled and packaged in accordance with the specifications fixed by the department under this chapter, or which are not in a certified container as provided in Sections 28512 and 28513, or which are otherwise found by the director to be unfit for human consumption, are subject to immediate condemnation, seizure, and confiscation by the director or the director's duly authorized agent. The shellfish shall be held, destroyed, or otherwise disposed of as directed by the director.

28515.5. The director may suspend or revoke any certificate issued pursuant to this chapter for any violation of this chapter or the regulations promulgated pursuant thereto.

Article 3. Fees

28516. The department shall charge and collect a fee for each certificate issued. The amount of the fee shall be established by regulation.

Article 4. Penalties

28517. Any person who willfully violates any provision of this chapter, or any regulation adopted pursuant to this chapter, is guilty of a misdemeanor and shall, if convicted, be subject to imprisonment for not more than six months in the county jail or a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or both. If the violation is committed after a previous conviction under this section which has become final, or if the violation is committed with the intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars ($1,000), or both.

28517.5. One-half of all fines collected by any court or judge for any violation of any provision of this chapter shall be paid into the

State Treasury to the credit of the General Fund.

Article 5. Proceedings

28518. (a) The Attorney General, any district attorney, or any city attorney to whom the department reports any violation of this chapter shall begin appropriate proceedings in the proper court.

(b) Before any alleged violation of this chapter is reported to the Attorney General, a district attorney, or a city attorney for the institution of a criminal proceeding, the person against whom this proceeding is contemplated may be given appropriate notice and an opportunity to show cause why he or she should not be prosecuted and to present additional facts which may mitigate the action. The showing may be presented either orally or in writing, in person, or by attorney.

28518.2. The department is not required to institute proceedings under this chapter for minor violations of this chapter, if the department believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

28518.5. When the state asserts a violation of this chapter, the state need not negate any exemption or exception from the requirements of this chapter in any pleading, or in any trial, hearing, or other proceeding. The burden of proof with respect to any such exemption or exception rests upon the person claiming its benefits.

28518.8. Except to the extent otherwise provided in Section 28502 and subdivision (e) of Section 28506, or when a violation is asserted pursuant to Section 28517, when the department asserts a violation of this chapter, all affected persons shall be afforded an opportunity for an administrative hearing after 20 days notice.

(b) The notice shall include all of the following:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes, regulations, and rules involved.

(4) A short and plain statement of the matters asserted.

(c) Opportunity shall be afforded all persons to respond and present evidence on the issues involved.

(d) Hearings authorized or required by this chapter shall be conducted by the department or any agent as the department may designate for that purpose.

(e) Oral proceedings or any part thereof shall be transcribed at the request of any person. The person requesting the transcription shall bear the cost of the transcript.

(f) Final decisions or orders adverse to any person shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, which shall be separately stated. Persons shall be notified either personally or by mail of any decision or order.

28519. A person who has exhausted all administrative remedies available within the department and who is aggrieved by a final decision or order is entitled to judicial review pursuant to this chapter.

28519.5. All regulations applicable to this chapter, and currently in effect at the time this chapter takes effect, shall remain in effect until the department adopts regulations pursuant to Section 28503.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1181

An act to add Section 14005.10 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 14005.10 is added to the Welfare and Institutions Code, to read:

14005.10. (a) In determining eligibility pursuant to Section 14005.4 or 14005.7, reparation payments received by victims of the Nazi persecution from the Federal Republic of Germany pursuant to the Federal Law on the Compensation of Victims of the National Socialist Persecution (Federal Compensation Law), as enacted by that government on June 29, 1956, shall not be deemed as available income.

(b) The director shall seek federal waivers from the Secretary of the United States Department of Health and Human Services, in order to ensure federal financial participation. In the event of an initial determination by the Secretary of the United States Department of Health and Human Services that any provision of this section is in conflict with any federal statute or regulation, the department shall take all available and necessary steps to obtain a final determination reversing that decision. In the event that a final determination is made which finds a conflict with federal law, the director shall immediately request the Attorney General to seek judicial review of the determination, and the director shall notify the appropriate policy and fiscal committees of both houses of the Legislature of its request. Notwithstanding the outcome of the

director's efforts to obtain waivers under this subdivision, or a final judicial decision holding that any provision of this section is in conflict with federal law, subdivision (a) shall be implemented on July 1, 1985, or the date upon which waivers are obtained under this subdivision, whichever is earlier. Failure to obtain waivers pursuant to this subdivision shall not affect implementation of subdivision (a).

CHAPTER 1182

An act to add Section 1289 to the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1289 is added to the Health and Safety Code, to read:

1289. (a) No owner, employee, agent, or consultant of a long-term health care facility, as defined in Section 1418, or member of his or her immediate family, or representative of a public agency or organization operating within the long-term health care facility with state, county, or city authority, or member of his or her immediate family, shall purchase or receive any item or property with a fair market value of more than one hundred dollars ($100) from a resident in the long-term health care facility, unless the purchase or receipt is made or conducted in the presence of a representative of the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code. The role of the ombudsman is to witness the transaction and to question the resident and others as appropriate, about the transaction. The ombudsman may submit written comments pertaining to the transaction into the health records of the resident. The Office of the State Long-Term Care Ombudsman shall establish guidelines concerning activities of ombudsmen pursuant to this section. Additionally, the transaction described in this subdivision shall be recorded by the facility in the health records of the resident. The record of the transaction shall include the name and address of the purchaser, date and location of the transaction, description of property sold, and purchase price. The instrument shall include signatures of the resident, the purchaser, and the witnessing ombudsman.

(b) Any owner, employee, agent, or consultant of a long-term health care facility, or member of his or her immediate family, or representative of a public agency or organization operating within the long-term health care facility with state, county, or city authority, or member of his or her immediate family, who violates subdivision

(a) shall be required to return the item or property he or she purchased to the person from whom it was purchased, if he or she still possesses it. If the employee no longer possesses the item or property, he or she shall pay the person who sold the item or property the fair market value at the time he or she would otherwise be required to return the property.

(c) Craft items, which are those items made by residents of a long-term health care facility, are exempt from the provisions of this section.

(d) Any violation of this section shall be subject to a civil penalty not to exceed one thousand dollars ($1,000) which shall be enforced by the Department of Aging. The Department of Aging may bring a cause of action in a court of competent jurisdiction to enforce the provisions of this subdivision.

(e) Notwithstanding Section 1290, any person who violates this section is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100).

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1183

An act to add Section 1134.5 to the Civil Code, relating to real property.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1134.5 is added to the Civil Code, to read:

1134.5. (a) Except as provided in this section, the transferor of any real property containing at least one but not more than four residential units, whether the transfer is made by sale, exchange, or real property sales contract as defined in Section 2985, shall deliver to the prospective transferee a written statement by the transferor of whether any structural additions or alterations or the installation, alteration, repair, or replacement of significant components of the

structures upon the property, completed during the term of ownership of the transferor or of which the transferor has knowledge, were or were not completed under an appropriate permit or other authority for construction issued in accordance with an ordinance or regulation adopted pursuant to Section 38660 of the Government Code, Section 17921 of the Health and Safety Code, or Section 30600 of the Public Resources Code, or were subsequently validated by the public agency having jurisdiction.

(b) This section does not apply to any of the following:

(1) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, or transfers by a sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale.

(4) Transfers by a fiduciary in the course of the administration of a guardianship, conservatorship, or trust.

(5) Transfers from one coowner to one or more coowners.

(6) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(7) Transfers between spouses resulting from a decree of dissolution of a marriage or a decree of legal separation or from a property settlement agreement incidental to such decrees.

(8) Transfers by the Controller in the course of administering the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure).

(9) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(10) Transfers to or from any governmental entity.

(c) (1) The transferor shall deliver the statement as soon as practicable before the transfer of title in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract as defined in Section 2985. For purposes of this section, "delivery" means delivery in person or by mail to the transferee or transferor, himself or herself, or any person authorized to act for him or her in the transaction or to such additional transferees who have requested delivery from the transferor in writing. Delivery to the spouse of a transferee or transferor shall be deemed delivery to a transferee or transferor,

unless the contract states otherwise.

(2) If the statement required to be made by this section is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of written notice of the termination to the transferor. However, the right of the transferee to terminate his or her offer shall be extinguished upon the close of escrow or recordation of the conveyance document, whichever occurs first.

(d) (1) Neither the transferor nor his or her agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this section, provided that the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the transferor's agent, was based on information timely provided by public agencies or other persons providing information required to be disclosed pursuant to this section, and ordinary care was exercised in obtaining and transmitting the information.

(2) The delivery of any information required to be disclosed by this section to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this section shall be deemed to comply with the requirements of this section and shall relieve the transferor of any further duty under this section with respect to that item of information.

(3) The delivery of a preliminary title report issued by a title insurer or underwritten title company admitted to do business in this state, or the delivery of a report or opinion of a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or person of like or related capacity when dealing with knowledge or skills conventionally attributed to such person, shall be deemed information by "other persons providing information required to be disclosed" as contemplated in paragraphs (1) and (2), provided such "other persons" furnish or deliver the information pursuant to a request therefor, whether written or oral, by the transferor. In responding to such a request, the "other persons" may indicate, in writing, their understanding that the information they undertake to provide will be used in fulfilling the requirements of this section, and shall indicate those items of information, or parts thereof, which are required to be disclosed to which the information being furnished is applicable. Where such a statement is furnished, the "other person" shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(e) If information disclosed in accordance with this section is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom shall not constitute a violation of this section. If at the time disclosure is to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or the transferor's agent has made a reasonable effort to ascertain it, the transferor may use an

approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or the transferor's agent, and is not used for the purpose of circumventing or evading the provisions of this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(g) No transfer of title subject to the provisions of this section shall be invalidated solely because of the failure of any person to comply with this section. However, any person who willfully violates any provision of this section shall be liable in the amount of actual damages suffered by a transferee including attorney's fees. The remedy provided by this section is not exclusive and shall not preclude the transferee from pursuing any other remedy which he or she may have under any other provision of law.

(h) No person or entity conducting an escrow on behalf of the parties to a transfer of real property shall incur liability for the consequences of any act or omission of any act pursuant to this section, and no action may be brought or maintained against any such person or entity as a result of such act or omission.

SEC. 2. This act shall become operative on July 1, 1985.

CHAPTER 1184

An act to amend Sections 25300, 25304, 25305, 25307, 25308, 25309, 25358, 25502, 25504, 25514, 25514.5, 25516, 25520, 25523, and 25541 of, to add Sections 25310 and 25401.1 to, and to repeal and add Section 25604 of, the Public Resources Code, relating to energy resources.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to restructure and facilitate the process by which the State Energy Resources Conservation and Development Commission develops the Biennial Report and related documents and submits these reports to the Governor and the Legislature pursuant to the Warren-Alquist State Energy Resources Conservation and Development Act. Nothing in this act is intended to enhance or limit the authority of the commission under the Warren-Alquist State Energy Resources Conservation and Development Act.

SEC. 1.5. Section 25300 of the Public Resources Code is amended to read:

25300. Every electric utility in the state shall prepare and

transmit to the commission a report specifying 5-, 12-, and 20-year forecasts or assessments of loads and resources for its service area. Commencing in 1985, and every two years thereafter, the report shall be submitted to the commission on or before June 1. The report shall set forth the facilities which, as determined by the electric utility, will be required to supply electric power during the forecast or assessment periods. The report shall be in a form specified by the commission and shall include all of the following:

(a) A tabulation of estimated peakloads, resources, and reserve margins for each year during the 5- and 12-year forecast or assessment periods, and an estimate of peakload, resources, and reserve margins for the last year in the 20-year forecast or asessment period.

(b) A list of existing electric generating plants in service, with a description of planned and potential generating capacity at existing sites.

(c) A list of facilities which will be needed to serve additional electrical requirements identified in the forecasts or assessments, the general location of the facilities, and the anticipated types of fuel to be utilized in the proposed facilities.

(d) A description of additional system capacity which might be achieved through, among other things, improvements in (1) generating or transmission efficiency, (2) importation of power, (3) interstate or interregional pooling, and (4) other improvements in efficiencies of operation.

(e) An estimation of the availability and cost of fuel resources for the 5-, 12-, and 20-year forecast or assessment periods with a statement by the electric utility describing firm commitments for supplies of fuel required during the forecast or assessment periods.

(f) An annual load duration curve and a forecast of anticipated peakloads for each forecast or assessment period for the residential, commercial, industrial, and other major demand sectors in the service area of the electric utility as determined by the commission.

(g) A description of projected population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy and the bases for these projections.

(h) A description of the conservation programs in the residential, commercial, and industrial sectors being pursued by the utility, including load management standards adopted by the commission pursuant to Section 25403.5; and a statement specifying the extent to which those programs are achieving enhanced energy efficiency and conservation and the extent to which those programs do not, in the utility's evaluation, mitigate the need for additional facilities.

SEC. 1.5. Section 25304 of the Public Resources Code is amended to read:

25304. The commission shall review and evaluate the electric utilities' forecasts of loads and resources, and the comments of the Public Utilities Commission on such forecasts, in relation to the

population growth estimates prepared by the Department of Finance, Population Research Unit, and in relation to statewide and regional land use, transportation, and economic development programs and forecasts. The commission shall also examine the implications of the forecast level of loads and resources on, among other things, all of the following:

(a) Critical environmental and other resources of the state, including air and water quality, coastal, natural, and other unique areas, and energy resources.

(b) Public health and safety, general welfare, and the state's economy.

(c) Capital requirements for new facilities and costs to consumers of electricity and other forms of energy.

(d) Other significant factors which relate to the provision of electrical energy in the amounts and in the manner proposed by the electric utilities.

The commission shall also identify reasonable alternative technologies to those proposed by the electric utilities for consideration pursuant to Section 25604.

SEC. 2. Section 25305 of the Public Resources Code is amended to read:

25305. Within nine months after receipt of the reports specified in Section 25300, the commission shall prepare and distribute a draft electricity report, setting forth its findings and conclusions regarding the electric utilities' forecasts. The report shall be based upon information and views presented in the comments received under Section 25303 and the commission's independent analysis, and shall contain all of the following:

(a) The commission's evaluation of the probable service area and statewide, environmental, and economic impact and the health and safety aspect of constructing and operating the facilities proposed by the electric utilities and a description of the measures considered necessary by the commission to avoid or ameliorate any adverse impacts.

(b) Discussion of reasonable alternative technologies to those proposed by the electrical utilities for consideration pursuant to Section 25604.

(c) After consideration of the utility reports, public and agency comments, and forecasts prepared by the commission staff, the commission's 5- and 12-year forecasts of demand for electrical energy and capacity. Conservation, load management, or other demand reducing measures reasonably expected to occur shall be explicitly taken into account only in the determinations made pursuant to this subdivision, and shall not be considered as alternatives to a proposed facility during the siting process specified in Chapter 6 (commencing with Section 25500).

(d) An analysis and evaluation of the means by which the projected annual rate of demand growth of electrical energy may be reduced, together with an estimate of the amount of the reduction

to be obtained by each of the means analyzed and evaluated, including a statement of the impact of the reduction on the factors reviewed by the commission set forth in Section 25304 and subdivision (a).

(e) A statement of the level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecast or assessment period which, in the judgment of the commission, will reasonably balance requirements of state and service area growth and development, protection of public health and safety, preservation of environmental quality, maintenance of a sound economy, and conservation of energy and resources reasonably expected to occur. The 5- and 12-year forecasts or assessments established by the commission shall serve as the basis for planning and certification of facilities.

(f) A statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to subdivision (e).

(g) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies in all of the following categories:

(1) Demand-reducing policies.

(2) Conservation of energy.

(3) Development of potential sources of energy.

(4) Other policies and actions designed to affect the rate of growth in demand for electrical energy.

(h) A list, including maps, of existing electrical power generating sites, indicating those where the commission has determined that expansion is feasible within the forthcoming 12-year period.

(i) A list, including maps, of possible areas appropriate for additional electrical generating sites, including the generating capacity to be installed at the sites and the type of fuel and other general characteristics of the facilities which, as determined by the commission, will be required to meet the 12-year level of electrical energy demand established by the commission pursuant to subdivision (a).

(j) A list, including maps of sites and potential multiple-facility sites which have been found to be acceptable by the commission pursuant to Sections 25516 and 25516.5, including the generating capacity to be installed at each site and the type of fuel and other general characteristics of the facilities at each site.

SEC. 3. Section 25307 of the Public Resources Code is amended to read:

25307. Within three months after distribution of the commission's draft electricity report pursuant to Section 25305, the commission shall hold public hearings of which at least one shall be in the City of Sacramento to obtain the views and comments of the electric utilities, governmental agencies, private groups, and any other

person on the commission's proposals and recommendations in the draft electricity report.

SEC. 4. Section 25308 of the Public Resources Code is amended to read:

25308. Within 12 months after receipt of the reports required in Section 25300, the commission shall publish and distribute for public comment its draft final report on the electric utilities' forecasts and on the commission's independent analyses and evaluations, as specified in Section 25305. The published draft final electricity report shall contain the commission's adopted electricity forecast. The commission shall accept public comment on the draft final report for not more than 90 days and, after one or more public hearings, shall adopt the final electricity report within 15 months after receipt of the utility reports required by Section 25300. The final electricity report shall take effect on the day it is adopted by the commission.

SEC. 5. Section 25309 of the Public Resources Code is amended to read:

25309. Beginning May 1, 1985, and every two years thereafter, the commission shall transmit to the Governor and the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and public health and safety factors, and to provide the basis for state policy and actions in relation thereto, including, but not limited to, approval of new sites for additional facilities. The report shall include, but not be limited to, all of the following:

(a) An overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for energy, including patterns of urban metropolitan expansion, statewide and service area economic growth, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the commission, will significantly affect energy consumption and need to be considered in formulating state energy policy and programs.

(b) The commission's integrated assessment of the need for new resource additions, as determined pursuant to subdivisions (a) to (f), inclusive, of Section 25305 and adopted in its final report pursuant to Section 25308, which shall be used as the basis of planning and approval of new resource additions, including the level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecasts or assessment periods which, in the judgment of the commission, will reasonably balance the requirements of state and service area growth and development, the protection of the public health and safety, the preservation of environmental quality, the maintenance of a sound economy, and the conservation of resources.

(c) A statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to Sections 25305 to 25308, inclusive.

(d) The anticipated level of statewide and service area electrical

energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies.

(e) Based upon the commission's 20-year forecasts or assessment of growth trends in energy consumption and production, identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including, but not limited to, the costs of electricity and other forms of energy to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas.

(f) Assessment of the energy resources available to the state, including among others, fossil fuels and nuclear, solar, geothermal, cogeneration, and purchased power resources and power pooling; assessment of the potential of, and examination of the availability of, commercially developable fuels, including imported fuels, during the forthcoming 12- and 20-year periods; and recommendations regarding measures to be applied to conserve energy and fuels.

(g) An analysis and evaluation of the means by which the projected annual rate of demand growth of energy may be reduced, together with an estimate of the amount of the reduction to be obtained by policies and programs evaluated pursuant to Section 25401.1.

(h) An indication of those technologies which merit continued consideration or support in the commission's long range assessment efforts and its research and development program. The report shall also indicate those electrical generation and nongeneration technologies which have been found to be commercially available or reasonably expected to become available pursuant to Section 25604.

(i) A description of the commission's responsibilities and recommendations for emergency measures to be applied in the event of impending serious shortage of electrical and other forms of energy as provided in Chapter 8 (commencing with Section 25700) and evaluated under subdivision (b) of Section 25358.

(j) Recommendations to the Governor and the Legislature for administrative and legislative actions based on the results of commission studies and evaluations.

SEC. 6. Section 25310 is added to the Public Resources Code, to read:

25310. (a) Commencing November 1, 1985, and every two years thereafter, the commission shall publish and submit to the Governor and the Legislature a comprehensive report describing emerging trends relating to the use, availability, and pricing of petroleum and petroleum products, natural gas, coal, synthetic and other fuels, and investments in production and refining, and potential alternate fuel technologies. The commission shall include in its report long range forecasts of the anticipated supply and price of these fuels, and the demand for these fuels in the residential, commercial, and industrial sectors, and for electrical generation and transportation. The report

shall assess the risk of fuel supply disruption, price shocks, or other events, and shall assess the consequences of these events on the availability and price of fuels and the effects on the state's economy. The report shall also recommend needed changes in the state's energy shortage contingency plans, and include specific recommendations for legislative or administrative actions to increase production and productivity, improve the efficiency of fuel use, increase conservation, and any other actions needed to maintain sufficient, secure, and affordable fuel supplies for the state. Nothing in this section expands or diminishes the authority contained in Section 25216.

(b) Not less than 60 days prior to publication of the report required by subdivision (a), the commission shall submit a draft copy of the report to the Public Utilities Commission. Not more than 45 days after receiving a copy of the draft report, the Public Utilities Commission shall submit written comments to the commission on any analysis, findings, or recommendations which pertain to the Public Utilities Commission's constitutional, statutory, and other responsibilities. Each final report published and submitted to the Legislature and the Governor pursuant to subdivision (a) shall contain a summary of any written comments adopted and submitted to the commission by the Public Utilities Commission.

SEC. 6.5. Section 25358 of the Public Resources Code is amended to read:

25358. (a) Within 70 days after the end of each preceding quarter of each calendar year, the commission shall publish and submit to the Governor and the Legislature a summary, an analysis, and an interpretation of the information submitted to it pursuant to Section 25354 and information reviewed pursuant to Section 25357. This report shall be separate from the report submitted pursuant to Section 25322. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(b) The commission shall prepare a biennial assessment of the information provided pursuant to this chapter and shall include its assessment in the biennial fuels report prepared pursuant to Section 25310.

(c) The commission may use reasonable means necessary and available to it to seek and obtain any facts, figures, and other information from any source for the purpose of preparing and providing reports to the Governor and the Legislature. The commission shall specifically include in the reports its analysis of any unsuccessful attempts in obtaining information from potential sources, including the lack of cooperation or refusal to provide information.

(d) Whenever the commission fails to provide any report required pursuant to this section within the specified time, it shall provide to all members of the Legislature, within five days of the specified time, a detailed written explanation of the cause of any delay.

SEC. 7. Section 25401.1 is added to the Public Resources Code, to read:

25401.1. Commencing October 1, 1986, and every two years thereafter, the commission shall prepare and submit to the Governor and the Legislature a report which identifies emerging trends within the residential, commercial, industrial, agricultural, and transportation sectors of the state's economy related to energy conservation, specifies the level of statewide and service area energy conservation reasonably expected to occur in the forthcoming 5-, 12-, and 20-year periods determined pursuant to subdivision (c) of Section 25305, and indicates the potential for additional achievable energy conservation for the same periods. The report shall also identify improvements or alternatives to existing governmental and private programs and policies which would permit fuller realization of the potential for energy conservation either through direct programmatic actions or facilitation of the market. The report shall recommend legislative and administrative actions, programs, and policies designed to attain reasonably expected to occur and additional achievable, cost-effective, energy conservation. A preliminary report addressing selected program areas shall be adopted on or before October 1, 1985.

SEC. 8. Section 25502 of the Public Resources Code is amended to read:

25502. Each person proposing to construct a thermal powerplant or electric transmission line on a site shall submit to the commission a notice of intention to file an application for the certification of the site and related facility or facilities. The notice shall be an attempt primarily to determine the suitability of the proposed sites to accommodate the facilities and to determine the general conformity of the proposed sites and related facilities with standards of the commission and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the commission and shall be supported by such information as the commission may require.

Any site and related facility once found to be acceptable pursuant to Section 25516 is, and shall continue to be, eligible for consideration in an application for certification without further proceedings required for a notice under this chapter.

SEC. 8.5. Section 25504 of the Public Resources Code is amended to read:

25504. The notice of intention shall include a statement by the applicant describing the location of the proposed sites by section or sections, range and township, and county; a summary of the proposed design criteria of the facilities; the type or types of fuels to be used; the methods of construction and operation; the proposed location of facilities and structures on each site; a preliminary statement of the relative economic, technological, and environmental advantages and disadvantages of the alternative site and related facility proposals; a statement of need for the facility and information showing the

compatibility of the proposals with the most recent electricity report issued pursuant to Section 25308; and any other information that an electric utility deems desirable to submit to the commission.

SEC. 9. Section 25514 of the Public Resources Code is amended to read:

25514. After conclusion of the hearings held pursuant to Section 25513 and no later than 300 days after the filing of the notice, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or considered in the notice of intention proceeding with both of the following:

(1) The 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, except as provided in Section 25514.5.

(2) Applicable local, regional, state, and federal standards, ordinances, and laws, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

(d) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.

(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designated in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from the findings and conclusions.

SEC. 10. Section 25514.5 of the Public Resources Code is amended to read:

25514.5. In considering the acceptability of a site proposed to accommodate ultimately additional power-generating capacity, the commission, in determining, pursuant to Sections 25514 and 25512, the conformity of the facilities proposed in the notice with the

12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, shall base its determination only on such initial facilities as are proposed for operation within the forthcoming 12-year period. Additional facilities projected to be operating at the site at a time beyond the forthcoming 12-year period shall not be considered in the determination of conformity with the electric power demand forecast.

SEC. 11. Section 25516 of the Public Resources Code is amended to read:

25516. The approval of the notice by the commission shall be based upon findings pursuant to Section 25514. The notice shall not be approved unless the commission finds at least two alternative site and related facility proposals considered in the commission's final report as acceptable. If the commission does not find at least two sites and related facilities acceptable, additional sites and related facilities may be proposed by the applicant which shall be considered in the same manner as those proposed in the original notice.

If the commission finds that a good faith effort has been made by the person submitting the notice to find an acceptable alternative site and related facility and that there is only one acceptable site and related facility among those submitted, the commission may approve the notice based on the one site and related facility. If a notice is approved based on one site and related facility, the commission may require a new notice to be filed to identify acceptable alternative sites and related facilities for the one site and related facility approved unless suitable alternative sites and related facilities have been approved by the commission in previous notice of intention proceedings.

If the commission finds that additional electric generating capacity is needed to accommodate the electric power demand forecast pursuant to subdivision (e) of Section 25305 and, after the commission finds that a good faith effort was made by the person submitting the notice to propose an acceptable site and related facility, it fails to find any proposed site and related facility to be acceptable, the commission shall designate, at the request of and at the expense of the person submitting the notice, a feasible site and related facility for providing the needed electric generating capacity.

SEC. 12. Section 25520 of the Public Resources Code is amended to read:

25520. The application shall contain all of the following and such other information as the commission by regulation may require:

(a) A detailed description of the design, construction, and operation of the proposed facility.

(b) Safety and reliability information, including, in addition to documentation previously provided pursuant to Section 25511, planned provisions for emergency operations and shutdowns.

(c) Available site information, including maps and descriptions of

present and proposed development and, as appropriate, geological, aesthetic, ecological, seismic, water supply, population and load center data, and justification for the particular site proposed.

(d) Such other information relating to the design, operation, and siting of the facility as the commission may specify.

(e) A statement of need providing information showing compatibility of the proposed facility with the most recent electricity report issued by the commission pursuant to Sections 25305 to 25308, inclusive.

(f) A description of the facility, the cost of the facility, the fuel to be used, the source of fuel, fuel cost, plant service life and capacity factor, and generating cost per kilowatt hour.

(g) A description of any electric transmission lines, including the estimated cost of the proposed electric transmission line; a map in suitable scale of the proposed routing showing details of the rights-of-way in the vicinity of settled areas, parks, recreational areas, and scenic areas, and existing transmission lines within one mile of the proposed route; and justification for the route and a preliminary description of the effect of the proposed electric transmission line on the environment, ecology, and scenic, historic, and recreational values.

SEC. 13. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which shall include all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) Findings regarding the conformity of the proposed site and

related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) Findings regarding the conformity of the proposed facility with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305.

SEC. 14. Section 25541 of the Public Resources Code is amended to read:

25541. The commission may exempt from the provisions of this chapter thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities which do not add capacity in excess of 100 megawatts, if the commission finds both of the following:

(a) No substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

(b) Generating capacity will not be added which is substantially in excess of the forecast of electrical energy demands adopted pursuant to subdivision (e) of Section 25305.

SEC. 15. Section 25604 of the Public Resources Code is repealed.

SEC. 16. Section 25604 is added to the Public Resources Code, to read:

25604. Commencing June 1, 1986, and every two years thereafter, the commission shall prepare and submit to the Governor and the Legislature a report describing energy development trends in this state, evaluating the status of both new and existing energy technologies, and specifying those most relevant to the state's needs and opportunities. The report shall identify barriers to further energy resource development, including siting and environmental problems, and provide policy recommendations including research, development, and demonstration needed to overcome these barriers to development. The report shall also include both of the following:

(a) The commission's determination, after generic proceedings, of the commercial availability of technologies for the generation of electrical energy or capacity, and a list of the issues which may affect the ability to employ these technologies at a proposed site.

(b) The commission's determination, after generic proceedings, of nongeneration technologies which are available or are reasonably

expected to become available for use to reduce demand determined pursuant to subdivision (e) of Section 25305, and the issues which may affect the ability to employ these technologies to reduce demands.

CHAPTER 1185

An act to amend Sections 9902, 9971, and 9984 of, and to add Sections 9909.5, 9909.6, 9960.1, and 9984.1 to, the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 9902 of the Business and Professions Code is amended to read:

9902. As used in this chapter, "employment agency" or "agency" means any of the following:

(a) The business of conducting, in any capacity, an intelligence office, employment agency, registry other than a nurses' registry as defined in Section 9890.6, or any agency, business, or office which procures, offers, promises, or attempts to procure employment or engagements for others or employees for employers, or for the registration of persons seeking to procure or retain employment or engagement, or for giving information as to where and from whom this help, employment, or engagement may be procured, or for providing employment or engagements where a fee or other valuable consideration is exacted, or attempted to be collected, directly or indirectly, for these services, regardless of where the business is conducted.

(b) Any person, service, bureau, organization, club, résumé service, or employment counseling service, which by advertisement or otherwise offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(c) Any person who acts as a labor contractor.

(1) A labor contractor is any person, who, for a fee or other compensation, employs an individual to render personal services to, for, or under the direction of, a third person.

(2) "Bona fide employees" or "employees," when used with reference to the employees of a labor contractor, refers to the employees rendering services to the labor contractor and not to the individuals employed by the labor contractor to render personal services to, for, or under the direction of, a third person.

(3) A central hiring establishment, intelligence office, registry other than a nurses' registry, agency, or place maintained without cost to applicants for employment by groups of employers or groups of employers and employees, or a person licensed under Chapter 9 (commencing with Section 7000) of Division 3, does not constitute a labor contractor within the meaning of this chapter.

(4) A person employing individuals to render personal services to, for, or under the direction of, a third person is not a labor contractor within the meaning of this chapter if the person employing the individuals, in addition to wages or salaries, pays federal social security taxes, state and federal unemployment insurance, carries workers' compensation insurance as required by state law, and sustains responsibility for the acts of his or her employees while rendering services to, for, or under the direction of, a third person, and has no applicant-paid liquidated damage clause. The person employing individuals to render personal services shall not send the employees to any place where a strike, lockout, or labor dispute exists.

(d) Any employment counseling service, as defined in Section 9909.5.

SEC. 2. Section 9909.5 is added to the Business and Professions Code, to read:

9909.5. As used in this chapter, an "employment counseling service" means any business that procures or implies the procurement of employment or employment assistance or advertises in any manner the following services for a fee: career counseling, vocational guidance, psychological or aptitude testing, executive consulting, personnel consulting, career management, evaluation, or planning, the development of résumés and other promotional materials relating to the preparation for employment, or referral services relating to employment or employment qualifications.

SEC. 3. Section 9909.6 is added to the Business and Professions Code, to read:

9909.6. An "employment counseling service" for the purposes of this chapter shall be deemed to be an "employment agency." The term does not include businesses which are retained by, act solely on behalf of, and are compensated solely by, prior or current employers, which do not require any "jobseeker" to sign a contract, and do not in any way hold any "jobseeker" liable for fees.

An "employment counseling service" does not include any person or business which engages solely in the preparation of résumés and cover letters, provided that the résumé writing service does not advertise or hold itself out as offering other job seeking or placement services and does not charge more than three hundred dollars ($300) for any résumé, cover letter, or combination of both to any single consumer in any individual transaction.

An "employment counseling service" does not include any educational institution established solely for educational purposes which, as a part of its curriculum, offers employment counseling to

its student body for which the tuition or fees charged for the service do not exceed fifty dollars ($50). "Employment counseling service" does not include a psychologist or psychological corporation licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 providing psychological assessment, career or occupational counseling, or consultation and related professional services within their scope of practice.

An "employment counseling service" does not include educational psychologists licensed pursuant to Chapter 13 (commencing with Section 4986) of Division 2 providing counseling services within their scope of practice.

SEC. 4. Section 9960.1 is added to the Business and Professions Code, to read:

9960.1. An employment counseling service, as defined in Section 9909.5, shall deposit with the bureau, prior to the issuance or renewal of a license, a surety bond in the penal sum of ten thousand dollars ($10,000).

SEC. 5. Section 9971 of the Business and Professions Code is amended to read:

9971. (a) All books, records, and other papers kept pursuant to this chapter in any employment agency shall be open at all reasonable hours to the inspection of the director or his or her agents. Every employment agency shall furnish to the director upon request a true copy of those books, records, and papers or any portion thereof, and shall make such reports as the director prescribes.

(b) If any employment agency also engages in any other business which is not subject to this chapter, the records of the licensee pertaining to matters under the jurisdiction of the bureau shall be kept separate and apart from the records of that other business.

SEC. 6. Section 9984 of the Business and Professions Code is amended to read:

9984. (a) Every employment agency shall give to every applicant for employment from whom a fee or deposit is to be received a contract or receipt, in which is stated all of the following:

(1) The name, address, and telephone number of the employment agency.

(2) The name and address of the person giving the order for help, the date and consecutive number of the receipt of the order by the agency, and its manner of transmission.

(3) The date and consecutive number of issuing the contract.

(4) The name of the applicant, the name and address of the person to whom the applicant is sent for employment, and the address where the applicant is to report for employment.

(5) The amount of the fee to be charged and to be collected from the applicant and the amount of the fee paid or advanced by the prospective employer and by whom paid or advanced.

(6) The kind of work or employment.

(7) The daily hours of work; the wages or salary, including any consideration or privilege.

(8) If any labor trouble exists at the place of employment, that fact shall be stated in the contract.

(9) Any other term, condition, or understanding agreed upon between the agency and the applicant.

(b) There shall be printed on the face of all contracts in type no smaller than 10-point bold the following: "This agency is licensed by the Bureau of Employment Agencies of the State of California, (current address of the bureau). Inquiries concerning your contract may be sent to this address." At the bottom of the contract there shall appear a notice to the effect that the contract is the property of the applicant and shall not be taken from him or her.

(c) The employment agency shall in the contract undertake to repay the applicant the fee in the event the applicant fails to accept employment.

(d) All contracts or receipts shall be made and numbered consecutively in original and duplicate, both to be signed by the applicant and the person acting for the employment agency. The original shall be given to the applicant and the duplicate shall be kept on file at the agency.

(e) This section does not apply to employer-retained agencies or employment counseling services.

SEC. 7. Section 9984.1 is added to the Business and Professions Code, to read:

9984.1. (a) Every contract for employment counseling services shall be in writing and shall be subject to this section. Two copies of the contract shall be given to the customer at the time the customer signs the contract and before the employment counseling service accepts any fee or deposit. The contract shall contain all of the following:

(1) The name, address, and telephone number of the employment counseling service.

(2) The name and address of the person signing the contract and the person to whom the employment counseling services are to be provided.

(3) A description of the services to be provided; a statement when those services are to be provided; the duration of the contract; and refund provisions as appropriate, to be applicable if the described services are not provided according to the contract.

(4) The amount of the fee to be charged to or collected from the person receiving the services or any other person, and the date or dates when that fee is required to be paid.

(5) The following statement, in type no smaller than 10-point bold-faced type:

"No verbal or written promise or guarantee of any job or employment is made or implied under the terms of this contract."

(6) The following statement, in type no smaller than 10-point bold-faced type:

"This agency is licensed by the Bureau of Employment Agencies of the State of California, (current address of the bureau). Inquiries

concerning your contract may be sent to this address."

(7) The following statement, in type no smaller than 10-point bold-faced type:

YOUR RIGHT TO CANCEL

"You may cancel this contract for employment counseling services, without any penalty or obligation, if notice of cancellation is given, in writing, within three business days after you have signed this contract.

"To cancel this contract, just mail or deliver a signed and dated copy of the following cancellation notice or any other written notice of cancellation, or send a telegram containing a notice of cancellation, to (name of employment counseling service) at (address of its place of business), not later than midnight of the third business day after you signed this contract."

CANCELLATION NOTICE

I hereby cancel this contract.
Dated: _____

_____
Customer's Signature"

(8) The bureau may adopt further regulations specifying the contents and form of contracts subject to this section.

(b) Paragraph (7) of subdivision (a) shall not apply where time is of the essence and the employment counseling services must be performed at the request and for the convenience of the customer within three days of the date the contract is entered into, provided that the customer furnishes the employment counseling service with a separate dated and signed personal statement in the customer's own handwriting, describing the situation requiring immediate services and expressly acknowledging and waiving the right to cancel the contract within three business days.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1186

An act to amend Sections 31309 and 32023 of the Public Resources Code, relating to the coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 31309 of the Public Resources Code is amended to read:

31309. (a) Following approval of a proposed urban waterfront project by the conservancy, the conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing urban waterfront restoration plans. In addition, the conservancy may make loans to public agencies or nonprofit organizations, or any combination thereof, for the full cost of preparing an urban waterfront restoration plan, if both of the following are satisfied:

(1) Funding for those loans is provided for in the Budget Act.

(2) The cost of preparation of a plan is included in the cost of a project approved for funding pursuant to Division 22 (commencing with Section 32000).

(b) The loans shall be repaid when the bonds funding the project are sold and upon terms and at a rate of interest which recovers the costs of the funds to the state.

SEC. 2. Section 32023 of the Public Resources Code is amended to read:

32023. "Coastal zone" means that area of the state defined in subdivision (a) of Section 31006, except that it includes lands in Contra Costa County from the Richmond-San Rafael Bridge north and east to the termination of the jurisdiction of the San Francisco Bay Conservation and Development Commission, as described in Section 66610 of the Government Code, as well as any adjacent uplands, managed wetlands, marshes, and diked lands that significantly affect the environmental quality of the bay, or that are directly related to the public use and enjoyment of the San Francisco Bay.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the loans provided for under this act may be made during the current calendar year, it is necessary that this act take effect immediately.

CHAPTER 1187

An act to amend Section 66418 and 66419 of the Government Code, relating to subdivisions.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 66418 of the Government Code is amended to read:

66418. "Design" means: (1) street alignments, grades and widths; (2) drainage and sanitary facilities and utilities, including alignments and grades thereof; (3) location and size of all required easements and rights-of-way; (4) fire roads and firebreaks; (5) lot size and configuration; (6) traffic access; (7) grading; (8) land to be dedicated for park or recreational purposes; and (9) such other specific physical requirements in the plan and configuration of the entire subdivision as may be necessary to ensure consistency with, or implementation of, the general plan or any applicable specific plan.

SEC. 2. Section 66419 of the Government Code is amended to read:

66419. (a) "Improvement" refers to any street work and utilities to be installed, or agreed to be installed, by the subdivider on the land to be used for public or private streets, highways, ways, and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs as a condition precedent to the approval and acceptance of the final map thereof.

(b) "Improvement" also refers to any other specific improvements or types of improvements, the installation of which, either by the subdivider, by public agencies, by private utilities, by any other entity approved by the local agency, or by a combination thereof, is necessary to ensure consistency with, or implementation of, the general plan or any applicable specific plan.

CHAPTER 1188

An act to amend Section 5710.1 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 5710.1 of the Welfare and Institutions Code is amended to read:

5710.1. If any person is committed to a local mental health facility or is ordered to undergo outpatient treatment pursuant to Section 1026, 1026.1, 1368, or 1370.3 of the Penal Code or as a mentally disordered sex offender, or if any person committed to a state hospital or local mental health facility pursuant to Section 1026 or 1370 of the Penal Code or as a mentally disordered sex offender receives outpatient treatment pursuant to court approval, the county mental health program providing the inpatient or outpatient treatment services shall be reimbursed for the expenditures made by it for those services pursuant to this chapter, except that the state's share shall be 100 percent of those expenditures. Each county Short-Doyle plan shall include provision for the services in the plan.

The department shall develop a formula to allocate available state funds under this section to ensure that all participating counties that received categorical funding pursuant to Chapter 1274 of the Statutes of 1975 are funded on an equitable basis.

SEC. 2. Section 5710.1 of the Welfare and Institutions Code is amended to read:

5710.1. If any person is committed to a local mental health facility or is ordered to undergo outpatient treatment pursuant to Section 1026, 1026.1, 1368, or 1370.3 of the Penal Code or as a mentally disordered sex offender, or if any person committed to a state hospital or local mental health facility pursuant to Section 1026 or 1370 of the Penal Code or as a mentally disordered sex offender receives outpatient treatment pursuant to court approval, the county mental health program providing the inpatient or outpatient treatment services shall be reimbursed for the expenditures made by it for those services pursuant to this chapter, except that the state's share shall be 100 percent of those expenditures. Each county Short-Doyle plan shall include provision for the services in the plan.

The department shall develop a formula to allocate available state funds under this section to ensure that all participating counties that received categorical funding pursuant to Chapter 1274 of the Statutes of 1975 are funded on an equitable basis.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends that date.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2381 are both chaptered and become effective on or before January 1, 1985, both bills amend Section 5710.5 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 2381, that Section 5710.1 of the Welfare and Institutions Code, as amended by Section 70 of Assembly Bill 2381, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 5710.5 proposed by this bill. Therefore, if this bill and Assembly Bill 2381 are both chaptered and

become effective on or before January 1, 1985, and Assembly Bill 2381 is chaptered before this bill and amends Section 5710.1, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 1189

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Director of General Services, upon such terms and conditions and with such reservations and exceptions as, in his or her opinion, may be in the best interests of the state, and with the approval of the Director of Parks and Recreation and the State Public Works Board, may exchange all of the real property described in subdivision (b), which is under the jurisdiction of the Department of Parks and Recreation, directly for the transfer to the state of all right, title, and interest in and to the real property described in subdivision (c).

(b) That portion of Mendocino Headlands State Park adjacent to and south of the Mendocino Presbyterian Church, which consists of approximately 1.2 acres.

(c) Mendocino County Assessor's Parcel No. 119-160-12, which is adjacent to Little Lake, Ford, and Calpella Streets in the community of Mendocino.

(d) The Director of Parks and Recreation may approve the exchange only if he or she determines (1) that the deed from the state provides that any development of the property which is transferred to private ownership shall be compatible with the character and use of Mendocino Headlands State Park; (2) that a private nonprofit organization, which is capable of assuming responsibility for the care, maintenance, administration, and any appropriate development of the real property described in subdivision (c), has entered into an agreement with the department for the purpose of assuming and exercising that responsibility; and (3) that the real property described in subdivision (c) is of natural resource value and recreational benefit to the state which is equal to or greater than the natural resource value and recreational benefit derived from the real property described in subdivision (b).

SEC. 2. Pursuant to Section 5096.96 of the Public Resources Code, the City of Fortuna may move, from Rohner Park to Newburg Park, the lighting fixtures at Rohner Park as described in the Department of Parks and Recreation project #12-0010, which were acquired and

developed with the grant of state funds appropriated in Item 508(4) of the Budget Act of 1978 (Chapter 359, Statutes of 1978), if the City of Fortuna enters into an agreement with respect to those facilities as provided in Section 5096.96 of the Public Resources Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the exchange of property and the development of new park and recreational facilities provided for in this act to take place in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 1190

An act to amend Sections 19870, 19871.2, 20603, and 20742 of, and to repeal Section 20022.1 of, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 19870 of the Government Code, as amended by Chapter 673 of the Statutes of 1984, is amended to read:

19870. As used in this article:

(a) "Industrial disability leave" means temporary disability as defined in Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code and includes any period in which the disability is permanent and stationary and the disabled employee is undergoing vocational rehabilitation.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution if he had not vacated his position.

(c) "Nonrepresented employee" means an employee who is excluded from, or not otherwise subject to, collective bargaining, and who is employed in a class which has been designated by the director as being entitled to the enhanced benefits provided by Section 19871.2 due to the relationship of that class to represented classes who are entitled to the enhanced benefits pursuant to a memorandum of understanding.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds,

the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 19871.2 of the Government Code, as added by Chapter 673 of the Statutes of 1984, is amended to read:

19871.2. When a nonrepresented employee is temporarily disabled for more than 22 consecutive working days by an injury or type of injury designated by the director as qualifying an employee for the benefits of this section, he or she shall receive an enhanced industrial disability leave benefit. The enhanced benefit shall be equivalent to the injured employee's net take home salary on the date of occurrence of injury. Eligibility and benefits may continue for no longer than one year after the date of occurrence of the injury. For the purposes of this section, "net salary" means the amount of salary received after federal income tax, state income tax, and the employee's retirement contribution has been deducted from the employee's gross salary.

The final decision as to whether an employee is eligible for, or continues to be eligible for, enhanced benefits shall rest with the appointing authority or his or her designee. The appointing authority may periodically review the employee's condition by any means necessary to determine an employee's continued eligibility for enhanced benefits.

SEC. 3. Section 20603 of the Government Code is amended to read:

20603. (a) The normal rate of contribution for a state miscellaneous member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars ($317) per month paid such member for service rendered on and after July 1, 1976. The normal rate of contribution for a school member, or a local miscellaneous member shall be 7 percent of the compensation paid such member for service rendered on and after the operative date of the amendments to this section at the 1971 Regular Session.

The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21251.13 because of such inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars ($400) per month for service after the date of execution of the agreement including such service in the federal system and prior to termination of such agreement with respect to the coverage group to which he belongs.

(b) The normal rate of contribution for a state miscellaneous member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars ($513) per month paid such member for service rendered on and after July 1, 1976.

(c) The normal rate of contribution for a state miscellaneous member who elects to become subject to Section 21251.146 or Section

21251.147 shall be 0 percent.

SEC. 4. Section 20742 of the Government Code is amended to read:

20742. Notwithstanding any other provision of this part, the state's contribution to the Public Employees' Retirement Fund during fiscal year 1984–85 is a sum equal to the percentages of compensation paid the following categories:

(a) 17.604 percent with respect to state miscellaneous members.

(b) 19.976 percent with respect to state industrial members.

(c) 20.518 percent with respect to state safety members.

(d) 25.292 percent with respect to state patrol members.

(e) 24.310 percent with respect to state peace officer/firefighter members.

SEC. 5. In addition to the memoranda of understanding approved by Section 8 of Chapter 673 and Section 12 of Chapter 676 of the Statutes of 1984, the provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 7—California Union of Safety Employees, dated August 28, 1984.

(b) Unit 9—Professional Engineers in California Government, dated August 30, 1984.

(c) Unit 18—Communications Workers of America, dated August 29, 1984.

SEC. 6. Section 20022.1 of the Government Code, as added by Chapter 674 of the Statutes of 1984, is repealed.

SEC. 7. The provisions which require the expenditure of funds in the addendum, dated August 17, 1984, to the memorandum of understanding reached pursuant to Section 3517.5 of the Government Code between the state employer and the California Correctional Peace Officers Association for Unit 6, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable to employees in the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1191

An act relating to public assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Notwithstanding any provisions of law to the contrary, any regulations proposed by any state department implementing the provisions of Chapter 1520 of the Statutes of 1982 by adopting the dollar limit imposed by federal law on preneed funeral arrangements for the purpose of evaluating the personal property of a recipient of Aid to Families with Dependent Children or the State Supplementary Program, and Medi-Cal, shall be adopted within 30 days after the effective date of this act as emergency regulations pursuant to the provisions of Section 11346.1 of the Government Code. The regulations shall be subject to the review of the Office of Administrative Law pursuant to Section 11349.6 of the Government Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the dollar limit imposed by federal law on preneed funeral arrangements may be adopted as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1192

An act to amend Section 1026 of the Penal Code, and to amend Section 4119 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1026 of the Penal Code is amended to read:

1026. (a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in such trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the

defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In such trial, the jury shall return a verdict either that the defendant was sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding be that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the county mental health director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health.

(b) Prior to making such order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the county mental health director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be placed on outpatient status or confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or a designee. If, however, it shall appear to the court that the sanity of the defendant has been recovered fully, such defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority. Nothing in this section shall prevent the transfer of such patient to a hospital in another state in the manner provided in Section 4119 of the Welfare and Institutions Code.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the defendant be transferred to a public or private treatment facility approved by the county mental

health director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the county mental health director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same procedures and standard of proof as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or a designee.

(e) If the defendant is confined in a state hospital or other treatment facility as an inpatient or is on parole under the provisions of subdivision (a) or (b) of Section 1611, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the county mental health director of the county of commitment or a designee setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

SEC. 2. Section 4119 of the Welfare and Institutions Code is amended to read:

4119. The State Department of Mental Health shall investigate and examine all nonresident persons residing in any state hospital for the mentally disordered and shall cause these persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer such action by reason of a patient's medical condition.

Prior to returning the judicially committed nonresident to his or her proper state of residency, the department shall:

(a) Obtain the written consent of the prosecuting attorney of the committing county, the judicially committed nonresident person, and the attorney of record for the judicially committed nonresident person; or,

(b) In the department's discretion request a hearing in the superior court of the committing county requesting a judicial determination of the proposed transfer, notify the court that the state of residence has agreed to the transfer, and file the department's recommendation with a report explaining the reasons for its recommendation.

The court shall give notice of such a hearing to the prosecuting

attorney, the judicially committed nonresident person, the attorney of record for the judicially committed nonresident person and the department, no less than 30 days before such hearing. At the hearing, the prosecuting attorney and the judicially committed nonresident person may present evidence bearing on the intended transfer. After considering all evidence presented, the court shall determine whether the intended transfer is in the best interest of and for the proper protection of the nonresident person and the public. The court shall use the same procedures and standard of proof as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

For the purpose of facilitating the prompt and humane return of such persons, the State Department of Mental Health may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of persons residing in any state hospital for the mentally disordered in one state whose legal residence is in the other, and it may in these reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state hospital for the mentally disordered of this state. When a resident is returned to this state pursuant to this chapter, he or she may be admitted as a voluntary patient to any institution of the department as designated by the Director of Mental Health. If he or she is mentally disordered and is a danger to himself or herself or others, or he or she is gravely disabled, he or she may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5.

CHAPTER 1193

An act to amend Sections 72608, 72610, 72640, 72645, 72645.5, 72646, 72701, 72702, 72702.5, 72703, 72704, 72704.5, 72705, 72708.5, 72717.5, 72719, 72750.5, 72751, 72751.1, 72751.5, 72752, 72753, 72754, and 72755 of, and to add Sections 72609, 72706, and 72750.4 to, the Government Code, relating to courts.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Articles 2 (commencing with Section 72640), 3 (commencing with Section

72700) and 4 (commencing with Section 72750) of this chapter are deemed to be related in job and compensation to position classifications included in the Los Angeles County code. In order to maintain the relationship of compensation and employee rights and benefits between such officers and attachés of municipal courts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such code adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such salary adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Likewise, the salary of any court classification being enumerated in Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with Section 72750) of this chapter for the first time as an amendment to this chapter shall be adjusted as necessary on the effective date of such amendment to provide the same relationship to the county classification to which it is attached as that established when the court classification was approved in accordance with the provisions of Section 72607.

Table of Positions

Court classification	County classification
Officer Series	
Commander	Commander
Marshal	
Assistant marshal	
Captain	Captain
Lieutenant	Lieutenant
Sergeant	Sergeant
Deputy marshal IV	Deputy sheriff IV
Deputy marshal	Deputy sheriff
Deputy marshal trainee	Deputy sheriff trainee
Deputy marshal-matron	Corrections officer

Deputy clerk
Custody officer
Legal services specialist, marshal
Security officer II

Program Analysis Series

Chief program analyst
Program analyst
Legal research assistant
Assistant program analyst
Program analyst aid
Senior assistant program analyst
Deputy county counsel
Senior associate county counsel
Law clerk
Assistant administrative analyst
Administrative analyst aid
Senior administrative analyst

Administrative—Branch Supervisor—Courtroom Series

All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table.
Deputy Court Administrator
Management Services, M.C.
Deputy Court Administrator
Court Administrator/Clerk, Los Angeles
Chief Deputy Court Administrator, Los Angeles
Chief, civil division
Chief, court services division
Chief, criminal division
Chief, traffic division
Chief, valley division
Deputy chief, Los Angeles
Court administrator, one judge court
Court administrator, two judge court
Court administrator, three judge court
Court administrator, four judge court
Court administrator, five judge court
Superior court clerk
Court Administration group

Court administrator, six judge court	
Court administrator, seven judge court	
Court administrator, eight judge court	
Court administrator, nine judge court	
Court administrator, 10 judge court	
Principal Clerk, Los Angeles	Supervising Superior Court Clerk
Deputy clerk IV	Superior court clerk
Supervising deputy clerk II	

Personnel—Administrative Services Series

Personnel officer, M.C.	Personnel officer II
Personnel technician, M.C.	Senior departmental personnel technician
Personnel assistant, M.C.	Departmental personnel assistant
Training officer, M.C.	Training officer, county clerk
Head, fiscal and administrative services, marshal	Administrative analyst
Senior staff assistant, marshal	
Staff assistant, marshal	
Principal clerk, marshal	
Executive assistant, presiding judges association	
Chief, budget and facilities division, M.C.	
Principal administrative assistant, M.C.	Administrative assistant III
Senior administrative assistant, M.C.	Administrative assistant II
Administrative assistant, M.C.	Administrative assistant I
Staff assistant, M.C.	Staff assistant I
Statistical analyst	Statistical analyst
Accountant, M.C.	Accountant II
Accounting technician, M.C.	Accounting technician I
Chief, accounting & audit division	Trust & revenue officer
Intermediate accountant,	Intermediate accountant

M.C.	auditor
Senior accountant, M.C.	
Facilities services assistant, M.C.	Facilities services assistant
Head, office services, M.C.	Staff assistant I

Secretarial and Stenographic Series

Secretary to presiding judge, Los Angeles municipal court	Executive secretary group
Executive Secretary Los Angeles municipal court	
Management Secretary, Los Angeles municipal court	
Executive secretary, marshal	
Senior secretary II, Los Angeles municipal court	Senior secretary group
Management secretary, marshal	
Senior judicial secretary, municipal court	
Senior secretary III, municipal court	
Senior secretary, marshal	
Senior secretary I, Los Angeles municipal court	
Secretary, marshal	
Secretary, Los Angeles municipal court	
Senior stenograhpher, M.C.	Legal office assistant II
Stenographer, M.C.	

Clerical Series

Deputy clerk II, marshal	Intermediate typist-clerk
Deputy clerk II, M.C.	
Deputy clerk I, M.C	
Deputy clerk III, M.C.	
Deputy clerk III, marshal	
Supervising deputy clerk I	
Administrative clerk, marshal	
Senior payroll clerk, marshal	Supervising payroll clerk I

Payroll supervisor	
Payroll assistant	Payroll clerk I
Marshal's dispatcher	Sheriff dispatcher II

Supply and Duplicating Series

Supply and reproduction supervisor	Warehouse worker II
Supply and reproduction assistant	
Stockroom supervisor, municipal court	
Supply clerk	Warehouse worker aid
Printer I, M.C.	Printer I
Procurement aid, M.C.	Procurement aid

Management Information and Data-Processing Series

Chief, management information systems division	EDP administration group
Chief, data-processing division	
Data systems supervisor, M.C.	Data systems supervisor I
Data systems coordinator, M.C.	Data systems coordinator
Data systems analyst I, M.C.	Data systems analyst I
Data systems analyst II, M.C.	Data systems analyst II
Data conversion supervisor I, M.C.	Data conversion supervisor I
Data conversion supervisor III, M.C.	
EDP staff aid, M.C.	Systems aid
Supervising computer operator, M.C.	Supervising computer operator
Computer operations supervisor, M.C.	
Computer equipment operator, M.C.	Computer equipment operator
Computer systems operator, M.C.	Computer systems operator
Senior data control clerk, M.C.	Senior data control clerk
Data control clerk, M.C.	Data control clerk
Senior data conversion equipment operator, M.C.	Senior data conversion equipment operator

Data conversion equipment operator	Data conversion equipment operator

Salary adjustments made pursuant to this section shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature unless ratified at such session.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights, programs and benefits, including, but not limited to, paid medical plans, management incentive and early separation programs, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County employee classification. Participation in management incentive and early separation programs shall be established by joint action and approval of a majority of the board of supervisors and a majority of the judges of the court, except in the Los Angeles Judicial District where such joint action shall be approved by a majority of the board of supervisors and a majority of the court's executive committee.

Bonus Level I assignments of deputy marshals are as follows:

Nineteen positions—assistant commander, small division

Nine positions—bailiff supervisor

Eight positions—field supervisor

Nine positions—counter deputy

One position—vehicle coordinator

One position—training officer

One position—real estate levy/bookkeeping section supervisor

Bonus Level II assignments of deputy marshals are as follows:

Two positions—commander, small division

One position—headquarters communications center supervisor

One position—operations bureau deputy

One position—security and intelligence officer

One position—assistant procedures officer

Deputy marshals with Bonus Level I assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level II positions.

In addition to the salary adjustment otherwise provided by this section, all persons employed in the classifications of chief, civil division; chief, court services division; chief, criminal division; chief, data-processing division; chief, traffic division; chief, valley division; and court administrator (one/, two/, three/, four/, five/, six/, seven/, eight/, nine/, and 10/judge court) shall receive a

one-time only 10-level salary increase effective September 1, 1984. The resulting salary rates shall consitute the base rates for subsequent salary adjustments. The term "schedule" herein refers to the subschedule increments of the salary schedule of the Los Angeles County code.

SEC. 2. Section 72609 is added to the Government Code, to read:

72609. Except where otherwise provided by law, officers and attachés of municipal courts in Los Angeles County shall receive a monthly salary at a rate specified in the Los Angeles County code as follows:

Title	Schedule
Accountant	51L
Accounting technician	41E
Administrative assistant	45D
Administrative clerk	42E
Assistant marshal	89A
Assistant program analyst	56F
Captain	77A
Chief, accounting and audit division	68K
Chief, budget and facilities division	68K
Chief, civil division	67K
Chief, clerk-administrative services	59C
Chief clerk-civil	59C
Chief clerk-court services	59C
Chief clerk-criminal	59C
Chief clerk-traffic	59C
Chief, court services division	67K
Chief, criminal division	67K
Chief, data-processing division	67K
Chief, deputy court administrator, municipal court	78E
Chief, management information systems division	68K
Chief, program analyst	NW79F
Chief, traffic division	67K
Chief, valley division	67K
Commander	83A
Computer equipment operator	40D
Computer operations supervisor	62A
Computer systems operator	45L
Court administrator/clerk, L.A. municipal court	85J
Court administrator, one judge court	66K
Court administrator, two judge court	68K
Court administrator, three judge court	68K
Court administrator, four judge court	69K
Court administrator, five judge court	69K
Court administrator, six judge court	70K
Court administrator, seven judge court	72K
Court administrator, eight judge court	82K

Court administrator, nine judge court	73K
Court administrator, 10 judge court	73K
Data control clerk	32G
Data conversion equipment operator	34B
Data conversion supervisor I	41D
Data conversion supervisor III	50K
Data systems analyst I	57A
Data systems analyst II	58L
Data systems coordinator	63L
Data systems supervisor	63L
Deputy chief	62D
Deputy clerk I, marshal	27D[4]
Deputy clerk II, marshal	32G
Deputy clerk III, marshal	38F
Deputy clerk I, municipal court	29D[3]
Deputy clerk II, municipal court	32G
Deputy clerk III, municipal court	38F
Deputy clerk IV, municipal court	54C
Deputy clerk-custody officer	41E
Deputy court administrator, management services, municipal court	73F
Deputy court administrator, municipal court	72A
Deputy marshal	NW54H
Deputy marshal IV	58H
Deputy marshal matron	NW46G
Deputy marshal trainee	54H
EDP staff aid	41E
Executive assistant to presiding judges association	59H[4]
Executive secretary, Los Angeles Municipal Court	54B[3]
Executive secretary, marshal	52C[3]
Facilities services assistant	44H
Head, fiscal and administrative services, marshal	70K
Head, office services	55E
Intermediate accountant	57C
Legal research assistant	FH$7.75
Lieutenant	71G
Management secretary	46B[3]
Management secretary, marshal	49C[3]
Marshal	93A
Marshal's dispatcher	43C
Payroll assistant	37B
Payroll supervisor	43B
Personnel assistant	40E
Personnel officer	67F
Personnel technician	60F
Principal administrative assistant	59E
Principal clerk	58D
Principal clerk, marshal	46J
Printer I	42J

Procurement aid	41F
Program analyst	NW70F
Program analyst aid	45L[2]
Secretary, marshal	40B
Secretary, municipal court	38B
Secretary to presiding judge	56B[3]
Senior accountant	59L
Senior administrative assistant	54H
Senior assistant program analyst	59H
Senior data control clerk	36E
Senior data conversion equipment operator	38B
Senior judicial secretary	45B[3]
Senior payroll clerk, marshal	42B
Senior secretary I	40B
Senior secretary II	42B
Senior secretary III	45B[3]
Senior secretary, marshal	44B
Senior staff assistant marshal	59F
Senior stenographer	42B
Sergeant	65C
Staff assistant, marshal	49H
Staff assistant, M.C.	46E
Statistical analyst	49D
Stenographer	40B[3]
Stockroom supervisor	46A
Supervising computer operator	52A
Supervising deputy clerk I	42K
Supervising deputy clerk II	54C
Supervising law clerk	59B
Supply and reproduction assistant	39F
Supply clerk	40A
Supply and reproduction supervisor	45F
Training officer	64F

The term "schedule" used herein refers to the salary schedule of the Los Angeles County code.

SEC. 3. Section 72610 of the Government Code is amended to read:

72610. In addition to any other fees or charges required by law, in all civil cases and proceedings, exclusive of small claims court cases, the clerk shall collect from all private persons, firms and corporations the same fee as collected by the county clerk of Los Angeles County.

The provisions of Section 72004 shall apply to the collection and disposition of all sums collected pursuant to this section.

SEC. 4. Section 72640 of the Government Code is amended to read:

72640. There shall be one marshal for all municipal courts established in judicial districts in Los Angeles County, who shall be ap-

pointed pursuant to this article.

SEC. 5. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint:

(a) One assistant marshal. The marshal shall make such appointment from the peace officer members of his office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. The provisions of Section 72649 shall not be applicable to the appointment to nor removal of a person from this position, but all other provisions of Section 72649 shall be applicable. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by him prior to his appointment to the position of assistant marshal.

(b) Two commanders. Upon the occurrence of a vacancy, any succeeding appointment to this position may be made by the marshal at his sole discretion. At such time and thereafter, the provisions of Section 72649 shall not be applicable to the appointment to, nor removal of, a person from this position, but all other provisions of Section 72649 shall be applicable. The marshal shall make this appointment from the peace officer members of his office of the rank of lieutenant or higher, and the appointee shall serve solely at the pleasure of the marshal. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held prior to appointment as commander.

(c) Ten captains.

(d) Twenty-two lieutenants.

(e) Thirty-seven sergeants.

(f) Five hundred deputy marshals; except that the number of deputy marshals shall be reduced by the number of deputy marshal IV positions required to be retained pursuant to Section 72645.5.

(g) Twenty-seven deputy marshal trainees. Appointments to such positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding the provisions of 72649, such appointees shall be subject to a 12-month period of probation.

(h) Four deputy marshal-matrons, each of whom shall have completed a course of training which meets the requirements of the POST commission for a specialized law enforcement basic certificate.

(i) Four deputy clerk-custody officers.

(j) Ten legal services specialists, marshal, each of whom shall receive monthly compensation at the same rate specified for the county's class of security officer II.

SEC. 6. Section 72645.5 of the Government Code is amended to read:

72645.5. There shall be retained a number of deputy marshal IV positions equal to the number of persons who held those positions

immediately prior to January 1, 1982, and who continue to hold those positions. When an incumbent for any reason vacates a deputy marshal IV position, that position shall automatically cease to exist, and an additional deputy marshal position, under Section 72645(f), shall automatically be created.

SEC. 7. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

(a) One head, fiscal and administrative services, marshal.

(b) One senior staff assistant, marshal.

(c) One executive secretary, marshal. Appointment to this position shall be at step 3 of the schedule.

(d) Two staff assistants, marshal.

(e) One management secretary, marshal.

(f) Two principal clerks.

(g) One supply and reproduction supervisor.

(h) Two senior secretaries, marshal.

(i) Ten administrative clerks.

(j) One senior payroll clerk, marshal.

(k) One supply and reproduction assistant.

(*l*) Sixty-five deputy clerks, grade III.

(m) Three secretaries, marshal.

(n) Seventy-five deputy clerks, grade II.

(o) Fifteen deputy clerks, grade I.

(p) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.

(q) Six marshal's dispatchers.

SEC. 8. Section 72701 of the Government Code is amended to read:

72701. The judges of the municipal court shall appoint as many commissioners, not exceeding 13, as the business of the court requires. Each commissioner shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, each commissioner shall exercise the powers and perform the duties authorized by law to be performed by commissioners of the superior court and such additional powers and duties as may be prescribed by law. Each commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid the court commissioners of the Superior Court of the County of Los Angeles. If, however, the amount of the salary is fixed under a step plan of compensation based upon tenure of service, each incumbent shall nevertheless receive a salary equal to the top step thereof. In no event shall such salary exceed the salary provided for the judges of the municipal courts. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes attachés of the court. They shall not engage in the private practice of law.

SEC. 9. Section 72702 of the Government Code is amended to

read:

72702. There shall be one court administrator who shall be clerk of court and who shall be appointed by, and hold office at the pleasure of, the judges of the court and who shall receive a monthly salary at a rate specified in Section 72609. In addition to the duties prescribed by law, the judges of the court may delegate to the court administrator and clerk of court such administrative powers and duties as they deem necessary for the administration of the court.

SEC. 10. Section 72702.5 of the Government Code is amended to read:

72702.5. The clerk may appoint one deputy clerk who shall be chief deputy court administrator, one deputy clerk who shall be deputy court administrator, management services, and four deputy clerks who shall be deputy court administrators. The positions of chief deputy court administrator, deputy court administrator, management services, and deputy court administrator shall not be deemed civil service positions. Each person appointed to these positions shall serve at the pleasure of the court administrator.

SEC. 11. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) Nine deputy clerks who shall be division chiefs and who shall be assigned as chief, accounting and audit division; chief, budget and facilities division; chief, civil division; chief, court services division; chief, criminal division; chief, data-processing division; chief, management information systems division; chief, traffic division; and chief, valley division.

(b) Eight deputy clerks who shall be deputy chiefs.

(c) Sixteen deputy clerks who shall be principal clerks.

(d) Two deputy clerks who shall be principal administrative assistants, municipal court.

(e) One deputy clerk who shall be personnel officer, municipal court.

(f) Two deputy clerks who shall be personnel technicians, municipal court.

(g) One deputy clerk who shall be personnel assistant, municipal court.

(h) Two deputy clerks who shall be senior administrative assistants, municipal court.

(i) Two deputy clerks, who shall be administrative assistants, municipal court.

(j) One deputy clerk who shall be stockroom supervisor, municipal court.

(k) One deputy clerk who shall be supply clerk, municipal court.

(*l*) One deputy clerk who shall be payroll supervisor, municipal court.

(m) Three deputy clerks who shall be payroll assistants, municipal court.

(n) Two deputy clerks who shall be accounting technicians, mu-

nicipal court.

(o) Two deputy clerks who shall be staff assistants, municipal court.

(p) One deputy clerk who shall be printer I, municipal court.

(q) One deputy clerk who shall be training officer, municipal court.

(r) One deputy clerk who shall be accountant, municipal court.

(s) One deputy clerk, who shall be intermediate accountant, municipal court.

(t) Two deputy clerks who shall be senior accountants, municipal court.

SEC. 12. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) One hundred twenty-four deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 74 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law.

(b) One deputy clerk who shall be secretary to presiding judge.

(c) One deputy clerk who shall be executive secretary, Los Angeles Municipal Court.

(d) Fourteen deputy clerks who shall be senior judicial secretaries and who shall receive a monthly salary at the same rate specified for the superior court class of senior judicial secretary. Appointments to the positions shall be at step 3 of the schedule.

(e) Eighty-three deputy clerks grade III.

(f) Five deputy clerks, supervising clerk I.

(g) One hundred ninety deputy clerks grade II.

(h) One hundred twelve deputy clerks grade I.

(i) Four deputy clerks, who shall be senior secretaries II, municipal court.

(j) One deputy clerk who shall be senior secretary I, municipal court.

(k) Two deputy clerks who shall be secretaries, municipal court.

(*l*) Three deputy clerks who shall be management secretaries, municipal court.

(m) One deputy clerk who shall be head, office services, municipal court.

(n) One deputy clerk who shall be facilities services assistant, municipal court.

(o) One deputy clerk who shall be procurement aide, municipal court.

(p) Seven deputy clerks who shall be supervising deputy clerk II.

SEC 13. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint:

(a) One deputy clerk who shall be computer operations supervisor.

(b) One deputy clerk who shall be data conversion supervisor III.

(c) Three deputy clerks who shall be data conversion supervisors I.

(d) Nine deputy clerks who shall be senior data conversion equipment operators.

(e) Thirty-one deputy clerks who shall be data conversion equipment operators I.

(f) Four deputy clerks who shall be data systems analysts II.

(g) Two deputy clerks who shall be data systems analyst I.

(h) One deputy clerk who shall be EDP staff aide.

(i) Two deputy clerks who shall be supervising computer operators.

(j) Two deputy clerks who shall be computer systems operators.

(k) Two deputy clerks who shall be computer equipment operators.

(*l*) One deputy clerk who shall be senior data control clerk.

(m) Two deputy clerks who shall be data control clerks.

(n) Two deputy clerks who shall be data systems coordinators.

(o) One deputy clerk who shall be data systems supervisor, municipal court.

SEC. 14. Section 72705 of the Government Code is amended to read:

72705. Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the Salary Ordinance of the County of Los Angeles shall apply.

(a) Any deputy clerk of grade I classification who is regularly required to work on Saturdays and Sundays, or any deputy clerk who is required regularly to work a night shift shall receive a two-schedule increase in basic compensation. A night shift is a tour of duty which commences after 2 p.m. and prior to 6 a.m.

(b) Not more than 26 deputy clerks grade IV, while assigned to duties in divisions of the court requiring greater skill and responsibility, and, at each branch court of three or more divisions, one deputy clerk grade III assigned to supervise not less than 15 deputy clerks shall receive a two-schedule increase in compensation, provided that such branch court or division in said branch shall not have more than two such deputy clerk positions compensated under this provision at any one time.

(c) Unless otherwise specifically provided, each person appointed to a position set forth in Sections 72702, 72702.5, 72703, 72704, 72704.5, 72717, and 72717.5 shall, be entitled to the same rights, privileges and benefits allowed Los Angeles County employees as provided in Chapter 1 of Ordinance 6222 of the County of Los Angeles (Title 6, Los Angeles County Code). Any person appointed, promoted, or demoted to another office or position in such service, shall be compensated at the schedule provided for said appointment, promotion, or demotion in Chapter 1 of Ordinance 6222 (Title 6, Los Angeles County Code).

SEC. 15. Section 72706 is added to the Government Code, to read:

72706. In lieu of any position established in this chapter and to

meet the needs of the court, the court administrator may appoint additional deputy clerks to any appropriate classification and title set forth in the Los Angeles County Ordinance 6222 (Title 6, Los Angeles County Code), provided, however, that a budgeted position of an equal or greater pay level in encumbered.

SEC. 16. Section 72708.5 of the Government Code is amended to read:

72708.5. The judges of the court may appoint as many interpreters, not exceeding four, and as many law clerks, not exceeding five, as the business of the court may require. One of the law clerks may be appointed supervising law clerk. Employees appointed pursuant to this section shall hold office at the pleasure of the judges and shall receive the same compensation as is paid to the respective class of employees in the Superior Court of Los Angeles County. They shall be members of any retirement system which includes attachés of the court.

SEC. 17. Section 72717.5 of the Government Code is amended to read:

72717.5. The chief program analyst, municipal courts, may appoint:

(a) Six program analysts II.

(b) The chief program analyst, municipal courts, may also appoint:

(1) One senior secretary III.

(2) One senior stenographer, municipal courts.

(3) One stenographer, municipal courts.

(4) Fifteen research assistants.

(5) One program analyst aid.

(6) One senior assistant program analyst.

(c) The chief program analyst may designate one program analyst as assistant chief program analyst who shall, for the duration of the assignment, receive an increase in basic compensation of two salary schedules.

(d) The chief program analyst may appoint an assistant program analyst in lieu of a program analyst on a one for one substitute basis.

SEC. 18. Section 72719 of the Government Code is amended to read:

72719. The judges of the municipal courts of Los Angeles County may appoint one executive assistant, presiding judges' association.

SEC. 19. Section 72750.4 is added to the Government Code, to read:

72750.4. In each municipal court district having eight judges authorized by law, the officers and attachés shall be appointed, as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Seventeen deputy clerks grade I.

(b) Seventeen deputy clerks grade II.

(c) Fourteen deputy clerks grade III.

(d) Twelve deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One deputy clerk, senior judicial secretary, who shall receive a monthly salary at the same rate specified for senior judicial secretary in Section 72704.

(f) One chief clerk-administrative services.

(g) One chief clerk-court services.

(h) One chief clerk-civil.

(i) One chief clerk-criminal.

(j) One chief clerk-traffic.

One occupant of a chief clerk position as set forth in subdivisions (f) to (j), inclusive, shall be designated by the court administrator as assistant court administrator and shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 20. Section 72750.5 of the Government Code is amended to read:

72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Eleven deputy clerks grade I.

(b) Thirteen deputy clerks grade II.

(c) Nine deputy clerks grade III.

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One deputy clerk, senior judicial secretary.

(f) One chief clerk-administrative services.

(g) One chief clerk-court services.

(h) One chief clerk-civil.

(i) One chief clerk-criminal.

(j) One chief clerk-traffic.

(k) One occupant of chief clerk position as set forth in this section shall be designated by the court administrator as assistant court administrator and shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 21. Section 72751 of the Government Code is amended to read:

72751. In each municipal court district having six judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk.

The clerk may appoint:

(a) Ten deputy clerks grade I.

(b) Twelve deputy clerks grade II.

(c) Eight deputy clerks grade III.

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 22. Section 72751.1 of the Government Code is amended to read:

72751.1. In each municipal court district having five judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Nine deputy clerks grade I.

(b) Eleven deputy clerks grade II.

(c) Nine deputy clerks grade III.

(d) Seven deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of said court.

SEC. 23. Section 72751.5 of the Government Code is amended to read:

72751.5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Nine deputy clerks grade I.

(b) Eleven deputy clerks grade II.

(c) Nine deputy clerks grade III.

(d) Six deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 24. Section 72752 of the Government Code is amended to read:

72752. In each municipal court district having three judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Nine deputy clerks grade I.

(b) Eleven deputy clerks grade II.

(c) Nine deputy clerks grade III.

(d) Five deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

(e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 25. Section 72753 of the Government Code is amended to read:

72753. In each municipal court district having two judges authorized by law the officers and attachés shall be appointed as follows:

There shall be one court administrator who shall be the clerk appointed by the judges of the court.

The clerk may appoint:

(a) Six deputy clerks grade I.

(b) Eight deputy clerks grade II.

(c) Six deputy clerks grade III.

(d) Three deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757.

(e) One chief deputy clerk who shall be assistant court administrator and who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of the court.

SEC. 26. Section 72754 of the Government Code is amended to read:

72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one court administrator who shall be the clerk appointed by the judge of the court.

The clerk may appoint:

(a) Three deputy clerks grade I.

(b) Four deputy clerks grade II.

(c) Four deputy clerks grade III.

(d) Two deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757; provided, however, that one of such deputy clerks grade IV whose regular duties shall include the supervision of clerical personnel shall, for the duration of such assignment, receive compensation at the rate of the next higher numbered salary schedule which will increase his basic compensation by one step.

SEC. 27. Section 72755 of the Government Code is amended to read:

72755. In those positions for which this article provides a five-step rate of compensation, the provisions of this section shall apply.

(a) Except in the case of transfer, demotion, promotion or where otherwise specifically provided, original appointments to such positions shall be at the rate designated for step 1 of the salary schedule

pertaining to the position occupied.

(b) The initial rate of compensation shall be increased to the next higher step of the schedule applicable to the position occupied upon the completion of six months' continuous service in the same position. Upon the completion of each ensuing 12 months of such service, such compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until such compensation equals the sum specified in step 5 of such schedule.

(c) A step advancement shall not be granted to any person if his or her superior finds that his or her work has been unsatisfactory and so notifies the Civil Service Commission.

(d) When a person is promoted to a position on a five-step basis, he or she shall receive the first-step rate in the salary schedule of the new position which results in an increase in salary.

(e) A person demoted to a lower position shall be entitled to receive whichever of the following rates is lower:

1. Step 5 of the salary schedule pertaining to the position to which he or she is demoted.

2. The same rate of pay which he or she was receiving prior to demotion.

(f) The appointing power who demotes a person for disciplinary reasons may specify any step rate in the salary schedule pertaining to the lower position except that it shall not be higher than the step rate held by the employee in the higher position.

(g) If a person begins employment between the 1st and 15th of any calendar month, inclusive, his or her step advancement shall be calculated from the first day of that month. Where a person begins employment on or after the 16th day of a calendar month, the step advancement shall be calculated from the first of the next month.

(h) Upon demotion, a person shall retain the anniversary date held in the higher position.

(i) Any deputy clerk grade III who is necessarily assigned to the regular duties of a deputy clerk grade IV because of an absence of such deputy clerk grade IV shall, for any period of such assignment in excess of 30 calendar days, receive compensation at the rate of that higher numbered salary schedule which will increase his or her basic compensation by four schedules.

(j) One deputy clerk I, II, or III in each municipal court of six judges or less, who having passed the stenographic skills proficiency examination given by the County of Los Angeles for the county position of stenographer, shall be entitled to receive a bonus equivalent to a four-schedule salary increase when regularly required to provide stenographic and secretarial services to the judge or judges of the court.

(k) Not more than one deputy clerk grade IV in each municipal court having six judges or fewer, or two such deputy clerks grade IV in each municipal court having seven judges or more, while assigned to duties in divisions of the court requiring greater skill and responsibility shall receive a two-schedule increase in compensation.

SEC. 28. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1194

An act to amend Sections 70047.5, 73793, 73796, 73797, 73798, 74705, and 74708 of the Government Code, relating to courts.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 70047.5 of the Government Code is amended to read:

70047.5. In Sonoma County, for the 1983–84 fiscal year each regular official reporter shall be paid an annual salary of thirty-one thousand nine hundred thirty-two dollars ($31,932) , which salary shall include payment for his services in reporting proceedings by the grand jury, the coroner and the district attorney. In order that the salary provided for in this section shall remain equitable and competitive, the salary herein provided for shall be adjusted and increased by the same salary adjustment percentage enacted by the county by ordinance for the position entitled legal stenographer.

Reporters pro tempore shall be paid fifty-five dollars ($55) per half day and one hundred dollars ($100) per full day for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties.

Regular official reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave and other benefits allowed to employees in the clerical nonsupervisory representation unit of the county.

In such county the fee required by Section 70053 shall be twenty dollars ($20).

SEC. 2. Section 73793 of the Government Code is amended to read:

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 57.5.

SEC. 3. Section 73796 of the Government Code is amended to read:

73796. There shall be one marshal of the Merced County

Municipal Court. The marshal shall receive a salary on range 57.5.

When a vacancy occurs in the office, a majority of the superior and municipal court judges shall appoint the marshal and the marshal shall serve at their pleasure.

SEC. 4. Section 73797 of the Government Code is amended to read:

73797. (a) The marshal may appoint:

(1) One assistant marshal on range 53.5.

(2) One marshal's sergeant on range 52.5.

(3) Twelve deputy marshals II on range 49.

(4) Four civil assistants on range 38.5.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 5. Section 73798 of the Government Code is amended to read:

73798. The clerk-administrator may appoint:

(a) One supervising municipal court clerk II on range 48.5.

(b) Four supervising municipal court clerks I on range 45.

(c) Nine deputy court clerks II on range 40.5.

(d) Fourteen deputy court clerks I on range 38.5.

(e) One supervising account clerk I on range 43.5.

(f) Three account clerks I on range 39.

(g) Eight typist-clerks II on range 37.5.

(h) One pretrial release clerk on range 46.

(i) One typist-clerk III on range 40.5.

SEC. 6. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job responsibility and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	County classification

Court administrative officer-jury commissioner	Court administrator-jury commissioner
Clerk	Assistant county clerk, plus 2.5%
Municipal court reporter	Superior court reporter
Administrative assistant	Administrative assistant
Municipal court services supervisor	Court services supervisor plus 5.0%
Accountant I	Accountant I
Municipal court secretary	Superior court secretary
Municipal court clerk IV	Supervising clerk II
Deputy jury commissioner	Deputy jury commissioner
Account clerk III	Account clerk III
Municipal courtroom clerk	Superior court clerk
Municipal court clerk III	Supervising clerk I
Accountant clerk II/I	Account clerk II/I
Municipal court clerk II	Clerk-typist III
Municipal court clerk I	Clerk-typist II
Telephone operator	Telephone operator

SEC. 7. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be five judges who may together appoint:

(1) One court commissioner.

(2) One court administrative officer-jury commissioner.

(3) One clerk.

(4) One court reporter.

(5) Two municipal court secretaries.

(b) The court administrative officer-jury commissioner may appoint:

(1) One administrative assistant.

(2) One municipal court services supervisor.

(3) One accountant II/I.

(4) Thirteen municipal court clerks IV.

(5) One deputy jury commissioner.

(6) One account clerk III.

(7) Seventeen municipal court clerks III.

(8) Two account clerks II/I.

(9) Twenty-one municipal court clerks II/I.

(10) One telephone operator.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the

California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1195

An act to add Article 4.5 (commencing with Section 5771) to Chapter 8 of Part 1 of Division 4 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Article 4.5 (commencing with Section 5771) is added to Chapter 8 of Part 1 of Division 4 of the Food and Agricultural Code, to read:

Article 4.5. Notice Requirements

5771. When the director proclaims an eradication project in an urban area pursuant to Article 4 (commencing with Section 5761), the director or the commissioner, pursuant to this article, shall notify residents and physicians practicing in the area before aerially applying an economic poison to effect the eradication.

5772. The notice shall be delivered at least 72 hours prior to applying the economic poison. When the application of an economic poison is to be made pursuant to an emergency, the notice shall be delivered at least 24 hours prior to applying the economic poison.

5773. The notice shall be delivered to each residential unit in the treatment area. The notice shall also be mailed by first-class mail to each physician who maintains an office in the eradication area or is determined by the director to be likely to serve patients from the eradication area and whose scope of practice is determined by the director to be likely to include persons residing in the eradication area.

5774. The notice shall be delivered by hand distribution whenever practicable. If it is not practicable to provide notice by hand distribution, then notice may be accomplished by first-class mail so long as the affected residents and physicians receive the notice within the time limits prescribed in this article.

5775. Except for a change in the date of application due to weather-related problems or an emergency (as determined by the director), if the date of an economic poison application is changed, the notice required by this article shall be redistributed and contain the revised information. Additionally, the director shall transmit the

revised information to the local broadcast media, including not less than the two radio stations providing the broadest coverage in the eradication area.

5776. The notice distributed pursuant to this article shall contain all of the following:

(a) The date and approximate time of all proposed economic poison applications in the eradication area.

(b) The type of economic poison to be applied.

(c) Any health and safety precautions that should be taken.

(d) A telephone number and address of public health personnel who are familar with the eradication program.

5777. The notice shall be in both English and Spanish in cases in which over 5 percent of the persons receiving the notice are Spanish speaking.

5778. In every county that contains an eradication area in which an economic poison is used in the eradication effort, the department shall establish and operate a telephone service to provide information to the public on health issues related to application of the economic poison.

5779. For pesticide applications other than by air, the procedures in this article may be followed subject to the discretion of the director as to their practicality.

5780. No agency of the state or county shall be liable in any civil actions arising from the administration of this article if the director or the commissioner utilizes his or her best efforts to comply with the requirements of the article.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1196

An act to amend Section 11580.26 of the Insurance Code, relating to insurance.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11580.26 of the Insurance Code is amended to read:

11580.26. (a) Except where a named insured has agreed pursuant to Section 11580.2 to delete the coverages provided by that section, no policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except where the policy provides insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, and except a policy insuring a commercial vehicle as defined in Section 260 of the Vehicle Code, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless a named insured has been offered the following coverage:

(1) Where the policy of motor vehicle liability insurance includes collision coverage as defined in subdivision (d) of Section 660, coverage which provides that the deductible amount, if any, to be paid by the named insured under the collision coverage shall be payable by the insurer in the event of collision involving a vehicle owned by the named insured and insured under the policy, and an uninsured motor vehicle.

(2) Where the policy of motor vehicle liability insurance does not include collision coverage as defined in subdivision (d) of Section 660, coverage for property damage to the insured motor vehicle, but not including personal property contained therein, caused by the owner or operator of an uninsured motor vehicle. As used in this subdivision, "property damage" means payment for loss or damage to the insured motor vehicle resulting from collision, not to exceed its actual cash value or three thousand five hundred dollars ($3,500), whichever is less, for which loss or damage the insured is legally entitled to recover from the owner or operator of an uninsured motor vehicle. Property damage does not include compensation for loss of use of the motor vehicle. As used in this subdivision, the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist property damage coverage or endorsement applies.

(b) Every payment by an insurer under either coverage provided in paragraphs (1) and (2) of subdivision (a) shall be payable under the terms and conditions set forth in the policy, and shall be made only where the collision involves actual, direct physical contact between the insured and the uninsured motor vehicle and the owner or operator of the uninsured motor vehicle is identified or the uninsured motor vehicle is identified by its license number, provided that the insured or someone on his or her behalf shall have reported the accident within ten business days to his or her insurer or their agent and, provided further, that it is also determined by the insured

and insurer or, in the event of disagreement, by arbitration conducted by a single neutral arbitrator, when the insured has formally instituted arbitration proceedings within one year from the date of the accident, that the insured is legally entitled to recover the amount of the payments for property damage from the owner or operator of the uninsured motor vehicle. No cause of action shall exist against either an insured or insurer from exercising the right to request arbitration of a claim under this section or Section 11580.2.

(c) Any named insured, prior to or subsequent to the issuance or renewal of a policy, may elect not to accept the type of coverage provided by this section or the insurer and any named insured may agree in writing to waive this coverage when a motor vehicle is used or operated by a person or persons designated by name. That election shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force and shall continue to be so binding, with respect to any continuation or renewal of the policy, or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage, with respect to the use of any motor vehicle, is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis.

(d) An insurer paying a claim under any coverage required by this section shall be entitled to be subrogated to the rights of the insured to whom the claim was paid against any person legally liable for the damage to the insured motor vehicle to the extent that payment was made. The action may be brought within three years from the date that payment was made pursuant to this section.

(e) As used in this section, "uninsured motor vehicle" means any motor vehicle with respect to the ownership, maintenance, or use of which there is no property damage liability insurance or bond applicable at the time of the accident, or there is applicable insurance or bond but the company writing the insurance or bond denies coverage thereunder or refuses to admit coverage thereunder, except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no property damage liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof. A motor vehicle which has at least the minimum property damage liability limits required pursuant to Section 16056 of the Vehicle Code shall not be held to be an uninsured motor vehicle even when the property damage liability limits are not sufficient to compensate for all property damage caused by the owner or operator of the vehicle. As used in this section, "uninsured motor vehicle" shall not include a motor vehicle owned or operated by any insured or any resident of the named insured's household or self-insured within the

meaning of the financial responsibility provisions of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any government, or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence for premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads. As used in this section, "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of the coverage, the insurer making the payment shall, to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

(f) The offer of coverage required by this section shall be made only for policies issued or renewed on or after July 1, 1984.

(g) Any insurer whose insured has made a claim under either coverage provided in paragraphs (1) and (2) of subdivision (a), and that claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the property damage. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation until 30 days after the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(h) This section shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. Section 1 of this act shall become operative on July 1, 1985.

CHAPTER 1197

An act to amend Section 9102 of the Commercial Code, relating to secured transactions.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 9102 of the Commercial Code is amended to read:

9102. (1) Except as otherwise provided in Section 9104 on excluded transactions, this division applies

(a) To any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts; and also

(b) To any sale of accounts or chattel paper.

(2) This division applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, inventory lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This division does not apply to statutory liens except as provided in Section 9310.

(3) The application of this division to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this division does not apply.

(4) Notwithstanding anything to the contrary contained in this division, but subject to subdivisions (5), (6), and (7), no nonpossessory security interest, other than a purchase money security interest, may be given or taken in or to the inventory of a retail merchant held for sale consisting of beer, wine, or liquor. The phrase "purchase money security interest" as used in this subdivision does not extend to any after-acquired property other than the initial property sold by a secured party or taken by a lender as security as provided in Section 9107.

(5) Except as provided in this subdivision, any nonpossessory security interest in the inventory, other than beer, wine, or liquor, of a retail merchant shall be effective with respect to goods in which the debtor acquires rights before, on, or after July 1, 1985, provided the requirements of subdivision (1) of Section 9203 are met before, on, or after July 1, 1985. Any nonpossessory security interest in the inventory, other than beer, wine, or liquor, of a retail merchant whose sales of goods for personal, family, or household purposes exceeded 75 percent in dollar volume of his or her total sales of all goods during the 12 months preceding the filing of the financing statement perfecting the security interest shall not be valid unless:

(a) The security interest is a purchase money security interest as defined in Section 9107; or

(b) The security interest secures a debt as to which the secured party has made no restrictions as to use of funds, other than those which are commercially reasonable and made in good faith.

(6) Subdivisions (4) and (5) do not apply to the following:

(a) Inventory consisting of durable goods having a unit retail value of at least five hundred dollars ($500) or motor vehicles, housetrailers, trailers, semitrailers, farm machinery, construction machinery, or aircraft, or repair parts of any of the foregoing.

(b) Inventory of a debtor which is a cooperative association organized pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code (agricultural cooperative associations) or Part 3 (commencing with Section 13200) of Division 3 of Title 1 of the Corporations Code (Fish Marketing Act).

(7) For purposes of this section, a "retail merchant" is a merchant whose sales for resale did not exceed 75 percent in dollar volume of his or her total sales of all goods during the 12 months preceding the filing of the financing statement perfecting the security interest; and for the purpose of this subdivision, a sale of goods to a contractor, who is required to be licensed, for the purpose of incorporating such goods at any time into improvements or repairs to real property, is a sale for resale.

(8) A financing statement or a continuation statement filed on or before July 1, 1985, if otherwise sufficient in accordance with this division (other than Section 9102), shall be effective with respect to a security interest which first becomes permissible under Section 9102 on or after July 1, 1985.

(9) This section shall become effective on July 1, 1985.

CHAPTER 1198

An act to amend Sections 20231 and 20233 of, to add Section 20231.5 to, and to add Article 6.5 (commencing with Section 20209) to Chapter 1 of Part 3 of, the Public Contract Code, relating to transit districts.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Article 6.5 (commencing with Section 20209) is added to Chapter 1 of Part 3 of the Public Contract Code, to read:

Article 6.5.

20209. Notwithstanding any other provision of law, any transit district may negotiate the purchase from, or the sale to, any federal, state, or local public agency of any real or personal property upon terms and conditions agreed to by the district and the public agency.

SEC. 2. Section 20231 of the Public Contract Code is amended to read:

20231. The purchase of all supplies, equipment, and materials, and the construction of facilities and works, when the expenditure required exceeds twenty-five thousand dollars ($25,000), shall be by contract let to the lowest responsible bidder or otherwise as provided by Section 20231.5. Notice requesting bids shall be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. When the expected procurement required exceeds one thousand dollars ($1,000), the board shall seek a minimum of three quotations, either written or oral, which permit prices and other terms to be compared. The board may reject any and all bids and readvertise in its discretion.

SEC. 3. Section 20231.5 is added to the Public Contract Code, to read:

20231.5. (a) The Legislature finds and declares that the award of purchase contracts by the Southern California Rapid Transit District under competitive bid procedures may not be feasible for products and materials which are undergoing rapid technological changes or for the introduction of new technologies into district operations, and that in these circumstances it is in the public interest to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price in the award of these contracts.

(b) This section applies only to the purchase by the district of computers, telecommunications equipment, fare collection equipment, microwave equipment, and other related electronic equipment and apparatus. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(c) The board may, after a finding by a two-thirds vote that a particular procurement qualifies under subdivision (b), direct that the procurement be conducted through competitive negotiation under this section. For purposes of this section, competitive negotiation includes, but is not limited to, all of the following requirements:

(1) The request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the board, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of

the proposals.

(2) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(3) The board shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Award shall be made to the qualified proposer whose proposal will be most advantageous to the district, with price and all other factors considered.

(d) The board may reject any and all proposals and request new proposals, at its discretion.

(e) Any proposer may protest any acquisition conducted in accordance with this section by filing with the district, within 10 days after receiving notice of the recommended award, exclusive of Saturdays and Sundays, a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest, and shall be afforded an opportunity to appear and be heard before the board prior to the final award. The decision of the board on the protest is final.

SEC. 4. Section 20233 of the Public Contract Code is amended to read:

20233. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster or interruption of requirements contracts essential to the provision of daily transit service or catastrophic failure of revenue-producing equipment or facilities, the board may, by resolution passed by a vote of two-thirds of all its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, property, or the public welfare, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed to respond to the emergency without observance of the provisions requiring contracts, bids, or notice.

CHAPTER 1199

An act to add Section 14005.10 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 14005.10 is added to the Welfare and Institutions Code, to read:

14005.10. (a) The Legislature finds and declares as follows:

(1) Under federal law, minors living at home with their families

may not be eligible for the SSI and Medicaid programs.

(2) Under the Federal Budget Reconciliation Act of 1981, however, states may apply for a Section 1915(c) waiver to allow a person to be eligible for SSI and Medicaid when medical and social services provided in the home can be shown to be less costly than services provided in an institution.

(3) Whenever possible, medical and social services should be provided in the least restrictive setting and at the lowest cost to the programs involved.

(4) The State Department of Health Services has already successfully applied for the Section 1915(c) waiver as applied to certain defined populations of developmentally disabled, elderly, and medically acute clients.

(b) The State Director of Health Services shall apply for additional waivers when appropriate to expand the number and types of persons who will be eligible for in-home services.

(c) The State Director of Health Services shall report to the Legislature the department's findings as to the appropriateness of, and the possibility for, additional applications for the Section 1915(c) waivers no later than July 30, 1985.

CHAPTER 1200

An act to amend Sections 1812.401, 1812.402, and 1812.406 of, to amend and renumber Section 1812.409 of, and to add Section 1812.409 to, the Civil Code, and to amend Section 10127.5 of the Insurance Code, relating to credit insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1812.401 of the Civil Code is amended to read:

1812.401. For the purposes of this title:

(a) "Credit disability insurance" means insurance of a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(b) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction, who has directly participated in, arranged, or received a commission or other compensation for the sale of credit disability insurance to the debtor, or any successor to the right, title, or interest of any such lender, vendor, or lessor, and an affiliate, associate, or subsidiary of any of them or any director,

officer, or employee of any of them, or any other person in any way associated with any of them.

(c) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

(d) "Creditor's remedy" means and includes the imposition of any late charge or penalty, the acceleration of the maturity of all or any part of the indebtedness, the collection or assignment for the collection of all or any part of the indebtedness, the commencement of any action or special proceeding, or the enforcement of any security interest in any manner, including, but not limited to, repossession, foreclosure, or the exercise of a power of sale contained in a deed of trust or mortgage.

(e) "Disability claim period" or "claim period" means the period beginning on the due date of the first payment not paid by the debtor for which the debtor claims disability coverage arising from a then current disability and continuing until three calendar months thereafter or until the insurer pays or rejects the claim, whichever occurs sooner.

(f) "Notice" to a creditor means written notice deposited in the United States mail, postage prepaid, addressed to the creditor at the location where payments on the loan or credit transaction are normally required to be sent by the debtor. A creditor may elect to require that written notice, otherwise complying with the requirements of this subdivision, be sent to a different location or may elect to accept telephonic notice to a telephone number specified by the creditor, in either case in lieu of notice being sent to the location where payments are regularly required to be sent, if that location or telephone number is clearly and conspicuously disclosed as the proper place to direct any notice to the creditor relating to any claim of disability on each monthly billing, or on or in each payment coupon book (by adhesive attachment, republication, or otherwise), as the case may be, or (if payments are automatically deducted from an account of the debtor) on the annual statement of loan activity. In any particular instance a creditor may waive the requirement that notice be in writing and accept oral notice.

SEC. 2. Section 1812.402 of the Civil Code is amended to read:

1812.402. (a) No creditor, as defined in Section 1812.401, shall invoke any creditor's remedy against a debtor because of the debtor's nonpayment of any sum which becomes due during any disability claim period and for which credit disability insurance coverage, subject to this title, is provided.

(b) Upon initially receiving notice, as defined in subdivision (f) of Section 1812.401, of the debtor's claim of disability, the creditor shall inform the debtor in writing of the name, address, and telephone number of the insurer or its designated representative from whom the debtor may obtain claim forms. Upon receiving notice of the disability claim, the insurer or its designated representative shall

send necessary claim forms to the debtor. The debtor shall submit the claim to the insurer or its designated representative and shall notify the creditor, as specified in subdivision (f) of Section 1812.401, that a claim has been submitted.

This subdivision shall apply to the original creditor who sold the disability insurance and shall not apply to that creditor's successor in interest if the successor in interest (1) is not related by common ownership or control to that creditor and (2) has no information regarding the name, address, and telephone number of the insurer or its designated representative.

(c) Nothing in this section prohibits a creditor from invoking any creditor's remedy during or after the claim period for the debtor's nonpayment of any sum due prior to the claim period, whether or not the nonpayment is related to the claimed disability, or for the debtor's nonpayment of any interest, finance charge, or late charge accruing during the claim period of any sum due prior to the period.

(d) Nothing in this section prohibits a creditor from foreclosing a lien on any property to protect that creditor's security interest if a senior lienholder on that property (1) has initiated the foreclosure of its lien, (2) is not prohibited from continuing the foreclosure by any law or order of court, or (3) will not otherwise suspend or delay its foreclosure proceeding until after the disability claim period.

(e) If the insurer pays the claim within the disability claim period, the creditor shall treat each payment made by the insurer as though it were timely made by the debtor. If the insurer rejects the claim within the disability claim period or accepts the claim within the claim period as a partial disability which results in a payment of less than the full benefit which would be paid for the total disability, the debtor shall have the opportunity to pay the entire amount which became due during the claim period or the difference between the amount which became due during the claim period and the amount paid by the insurer for the partial disability without being subject to any creditor's remedy, except the imposition of late charges, for 35 days following the date on which the insurer sends notice of the rejection of the claim or acceptance of the claim as a partial disability. In the event the debtor does not pay the entire amount which became due during the claim period plus any accrued late charges within 35 days from that date, the creditor may then invoke any creditor's remedy.

(f) The obligations of the creditor and debtor pursuant to this section shall be disclosed in writing in at least 10-point type by the creditor to the debtor at the time the creditor sells the insurance, in the manner provided in paragraph (1), and by the insurer to the debtor at the time the insurer sends claim forms pursuant to subdivision (b), in the manner provided in paragraph (2).

(1) The disclosure required by the creditor shall be substantially in the following form:

CLAIM PROCEDURE

If you become disabled, tell us (your creditor) right away. (We advise you to send this information to the same address to which you are normally required to send your payments, unless a different address or telephone number is given to you in writing by us as the location where we would like to be notified.) We will tell you where to get claim forms. Send in the completed form to the insurance company as soon as possible and tell us as soon as you do.

If your disability insurance covers all of your missed payment, WE CANNOT TRY TO COLLECT WHAT YOU OWE OR FORECLOSE UPON OR REPOSSESS ANY COLLATERAL UNTIL THREE CALENDAR MONTHS AFTER your first missed payment is due or until the insurance company pays or rejects your claim, whichever comes first. We can, however, try to collect, foreclose, or repossess if you have money due and owing us or are otherwise in default when your disability claim is made or if a senior mortgage or lien holder is foreclosing.

If the insurance company pays the claim within the three calendar months, we must accept the money as though you paid on time. If the insurance company rejects the claim within the three calendar months or accepts the claim within the three calendar months as a partial disability and pays less than for a total disability, you will have 35 days from the date that the rejection or the acceptance of the partial disability claim is sent to pay past due payments, or the difference between past due payments and what the insurance company pays for the partial disability, plus late charges. You can contact us, and we will tell you how much you owe. After that time, we can take action to collect or foreclose or repossess any collateral you may have given.

If the insurance company accepts your claim but requires that you send in additional forms to remain eligible for continued payments, you should send in these completed additional forms no later than required. If you do not send in these forms on time, the insurance company may stop paying, and we will then be able to take action to collect or foreclose or repossess any collateral you may have given.

(2) The disclosure required by the insurer shall be substantially in the following form:

CLAIM PROCEDURE

Send in the completed form to the insurance company as soon as possible and tell your creditor as soon as you do. (Your creditor has already advised you of the address or telephone number to use to confirm that you have submitted your completed form to the insurance company.)

If your disability insurance covers all of your missed payments, YOUR CREDITOR CANNOT TRY TO COLLECT WHAT YOU OWE OR FORECLOSE UPON OR REPOSSESS ANY

COLLATERAL UNTIL THREE CALENDAR MONTHS AFTER your first missed payment is due or until the insurance company pays or rejects your claim, whichever comes first. Your creditor can, however, try to collect, foreclose, or repossess if you have money due and owing or are otherwise in default when your disability claim is made or if a senior mortgage or lienholder is foreclosing.

If the insurance company pays the claim within the three calendar months, your creditor must accept the money as though you paid on time. If the insurance company rejects the claim within the three calendar months or accepts the claim within the three calendar months as a partial disability and pays less than for a total disability, you will have 35 days from the date that the rejection or the acceptance of the partial disability claim was sent to pay past due payments, or the difference between past due payments and what the insurance company pays for the partial disability, plus late charges. You can contact your creditor who will tell you how much you owe. After that time, your creditor can take action to collect or foreclose or repossess any collateral you may have given.

If the insurance company accepts your claim, but requires that you send in additional forms to remain eligible for continued payments, you should send in these completed additional forms no later than required. If you do not send in these forms on time, the insurance company may stop paying, and your creditor will then be able to take action to collect or foreclose or repossess any collateral you have given.

(g) If a debtor does not make a payment for which the debtor claims disability coverage arising from a then current disability and if the creditor, after sending the debtor notice of the debtor's delinquency, invokes any creditor's remedy because of the nonpayment without knowledge of the debtor's claim of disability coverage, subject to this title, the following provisions apply:

(1) Upon receiving notice of the debtor's claim, the creditor shall not invoke any further creditor's remedy during the remainder of the claim period and the period provided in subdivision (e).

(2) Upon receiving notice, as specified in subdivision (f) of Section 1812.401, of the debtor's claim, the creditor shall rescind every creditor's remedy that has been invoked relating to the delinquency for which coverage is claimed, except that the creditor shall not be obligated to restore property which has been sold in a bona fide lawful sale to any person not related by common ownership or control to the creditor.

(3) The debtor shall be liable for costs and expenses actually incurred in connection with the invocation or rescission of any creditor's remedy.

(4) The creditor shall not be in violation of this title and shall not be liable under subdivision (i) provided the creditor complies with paragraphs (1) and (2) of this subdivision.

(h) The rights and remedies afforded debtors by this title shall be cumulative to each other and to all other rights and remedies which

the debtors may have under other laws.

(i) The debtor may bring an action for damages, equitable relief, or other relief for any violation of this title.

SEC. 3. Section 1812.406 of the Civil Code is amended to read:

1812.406. (a) This title does not apply to credit disability insurance covering a key person, as hereinafter defined, which a creditor requires as a condition to making a loan of at least twenty-five thousand dollars ($25,000) to be used in the operation of a business in which the key person is employed or has an ownership interest.

For the purposes of this subdivision, a "key person" is a person who the creditor and the debtor or debtors mutually agree must be involved in the operation of the business to assure its success.

(b) This title does not apply to a loan or other credit transaction (including an open line of credit) of more than 10 years' duration which is secured by a mortgage or deed of trust unless (1) the principal purpose of the loan or credit transaction is for the construction (other than initial construction), rehabilitation, or improvement (including "home improvement" as defined in Section 7151 of the Business and Professions Code) of real property consisting of four or fewer residential units, and (2) any document incident to the loan or credit transaction at the time the loan or extension of credit is made, or any course of dealing between the creditor and a contractor or material supplier assisting the borrower in obtaining the loan or extension of credit, would indicate that purpose.

(c) Subdivision (b) shall not apply to debtors who were entitled to receive notice from the creditor pursuant to subdivision (f) of Section 1812.402 on or after January 1, 1984, and prior to the effective date of the act which added this subdivision, unless the debtor receives written notice that the remedies provided in this title are revoked, the debtor is given an opportunity to cancel the coverage, and no claim has been made or notice provided as specified in Section 1812.401. If the debtor fails to cancel the insurance following receipt of the notice required under this subdivision, subdivision (b) shall apply to that policy upon payment by the debtor of the next installment of premium, whether to the insurer or to a creditor pursuant to a premium finance agreement.

SEC. 4. Section 1812.409 is added to the Civil Code, to read:

1812.409. This title shall not affect or defeat an interest in the debtor's property, acquired after the creditor invokes a creditor's remedy in violation of this title, by a bona fide purchaser or encumbrancer for value and without notice of facts that constitute a violation of this title.

SEC. 5. Section 1812.409 of the Civil Code is amended and renumbered to read:

1812.410. If any provision of this title or the application thereof to any person or circumstance is held to be unconstitutional, the remainder of the title and the application of the provision to other

persons and circumstances shall not be affected thereby.

SEC. 6. Section 10127.5 of the Insurance Code is amended to read:

10127.5. Every application for, certificate of, and policy of credit life or credit disability insurance shall set forth a statement in bold capital letters indicating that any preexisting health condition of the applicant may render the coverage void, if that is the case.

For the purpose of this section, "credit life or credit disability insurance" means insurance on the life or health of any borrower sold by any creditor to provide for the repayment of the amount of a loan or other extension of credit in the event of the debtor's death or disability as defined in the policy.

SEC. 7. A creditor or insurer may use the disclosure set forth in paragraphs (1) or (2), respectively, of subdivision (f) of Section 1812.402 of the Civil Code, as it existed prior to the enactment of this act, until July 1, 1985, without being deemed to be in violation of Title 2.9 (commencing with Section 1812.400) of Part 4 of Division 3 of the Civil Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act may take effect as soon as possible to coordinate with the provisions of Chapter 973 of the Statutes of 1983, to continue the operation and sale of insurance without market disruption, and to assure the insurance buying consumer with protection, it is necessary that this act take effect immediately.

CHAPTER 1201

An act to add and repeal Section 66412.8 of the Government Code, relating to subdivisions.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 66412.8 is added to the Government Code, to read:

66412.8. (a) In addition to the presumption established by subdivision (b) of Section 66412.6, in a county of 20,000 square miles or more, a parcel created prior to March 4, 1972, in violation of the provisions of this division or of a local ordinance enacted pursuant thereto, for which a permit or other grant of approval for development has not been issued, shall be conclusively presumed to be a legal parcel for purposes of sale by other than the owner of record at the time the violation occurred, if each of the following

conditions are met:

(1) The seller gives written notice to the buyer as follows:

"NOTICE: This parcel has been created in violation of the Subdivision Map Act. You must obtain a certificate of compliance or conditional certificate of compliance prior to obtaining a permit or other grant of approval for development of the parcel. The conditions imposed may significantly restrict your ability to develop the parcel."

(2) At the time of sale, the seller causes to be filed for record with the recorder of the county in which the real property is located, the notice required by paragraph (1), including a detailed description of the real property, the name of the seller, and the name of the buyer.

If the seller fails to give the notice required by paragraph (1), the buyer shall have those remedies provided by Sections 66499.32 and 66499.33.

(b) Buyers of land affected by the provisions of this section shall obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. The presumption created by this section shall not be applicable in determining whether the parcel or unit of land complies with the provisions of this division and of local ordinances enacted pursuant thereto, for purposes of subdivision (a) of Section 66499.35.

(c) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

CHAPTER 1202

An act to amend Section 1272 of, and to add Section 292 to, the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 292 is added to the Penal Code, to read:

292. It is the intention of the Legislature in enacting this section to clarify that for the purposes of subdivisions (b) and (c) of Section 12 of Article I of the California Constitution, a violation of subdivision (2) or (6) of Section 261, Section 264.1, subdivision (c) or (d) of Section 286, subdivision (b) of Section 288, subdivision (c) or (d) of Section 288a, or subdivision (a) of Section 289, shall be deemed to be a felony offense involving an act of violence and a felony offense

involving great bodily harm.

SEC. 2. Section 1272 of the Penal Code is amended to read:

1272. After conviction of an offense not punishable with death, a defendant who has made application for probation or who has appealed may be admitted to bail:

1. As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing a fine only.

2. As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing imprisonment in cases of misdemeanors.

3. As a matter of discretion in all other cases, except that a person convicted of an offense subject to this subdivision, who makes a motion for release on bail subsequent to a sentencing hearing, shall provide notice of the hearing on the bail motion to the prosecuting attorney at least five court days prior to the hearing.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To give immediate guidance to prosecutors, defense counsel, and the courts as to what felony sex offenses are subject to the application of the recently enacted provisions of the California Constitution permitting nonrelease on bail, and to provide prosecutors with adequate notice of the intention of convicted persons to seek release into the community, it is necessary that this act take immediate effect.

CHAPTER 1203

An act to add Sections 21266 and 22811.5 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 21266 is added to the Government Code, to read:

21266. Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member shall not cease upon remarriage if the remarriage occurs on or after January 1, 1985.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of

contracts or, in the case of contracts made after January 1, 1985, by express provision in the contract making the contracting agency subject to this section.

The employer is not required by this section to meet and confer with an employee organization regarding the subject matter of this section, and the subject matter shall not be included within the scope of representation pursuant to Section 3504.

SEC. 2. Section 22811.5 is added to the Government Code, to read:

22811.5. No person who, as a result of a remarriage on or after January 1, 1985, of an annuitant subject to Section 21266, would otherwise become a family member, may be enrolled as a family member.

CHAPTER 1204

An act to amend Section 52178 of, to add Section 52178.1 to, and to add and repeal Section 52178.3 of, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or, unless waived by the board, (c), and insofar as teachers are available, (d) of Section 52163 shall be bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the pupils of limited-English proficiency in the bilingual class and hold an internship credential or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable two-year waiver from the board for each teacher who is not bilingual-crosscultural but who is enrolled and participating in a program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than four school years, except as otherwise provided by this section, commencing with the first year that the teacher was under waiver, so long as continuing progress toward the certificate of competence is indicated in accordance with this

section.

Each school district which requests waivers shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver are, or will be, participating in, and fulfilling the requirements of, an appropriate program, as specified in this section, leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during each of the school years for which the waiver is granted, and shall state who is in charge of the program and which institution or district is conducting it. Existing state and federal staff development funds may be used for training and assessment leading to a bilingual specialist credential or a bilingual-crosscultural certificate of competence. The district shall further assure that all teachers receiving such a waiver have been notified in writing by the school board as to their obligations while under waiver.

The waiver application shall list the names of the teachers who are to receive the waiver, the school to which they are assigned, and the date by which the teacher is expected to obtain a bilingual specialist credential or the certificate of competence. Each district, whether or not it requests a waiver, shall report the number of classrooms for which a bilingual teacher is required pursuant to Section 52165, the total number of certificated bilingual-crosscultural teachers employed by the district in classroom positions, and, in the event the district requests a waiver, the total number of teachers for whom a waiver is being requested. If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to contact, recruit, and hire bilingual-crosscultural teachers.

It is not the intent of the Legislature, by amending this section in the 1979–80 Regular Legislative Session, to expand the requirements for the certificate of bilingual-crosscultural competence.

For purposes of this section, programs for the study of language, culture, and methodology offered by accredited postsecondary institutions shall be approved and regulated by the Commission on Teacher Credentialing. Courses for the study of language, culture, and methodology established by the State Department of Education pursuant to Article 4 (commencing with Section 52180) of Chapter 7 of Part 28 shall be approved by the State Department of Education and shall be deemed appropriate. All other courses for the study of language, culture, or methodology offered for bilingual teachers on waiver shall meet the standards and criteria published by the State Department of Education. The department shall adopt standards and criteria for training programs in language, culture, and methodology for teachers on waiver lacking competencies in those areas.

District applications for initial waivers to commence on or after July 1, 1984, and applications for two-year renewals, shall include

certification by the district that the applicant is enrolled in or will be enrolled in an approved language, culture, or methodology course or a course for the study of language, culture, or methodology that meets the standards and criteria adopted by the State Department of Education, and certification by the employing school district or education agency that the applicant teacher is making the following progress toward meeting the requirements for the bilingual-crosscultural certificate of competence:

(a) For the teacher who is just entering the bilingual program: no requirement.

(b) For the teacher beginning his or her second year on waiver: (1) competence in language, culture, or methodology, as required by subdivision (a), (b), or (c) of Section 44253.5, and (2), for the teacher who is not competent in language, enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or enrollment in a course for the study of language which is established or approved by the State Department of Education, or a program which meets the standards and criteria prescribed by the department under this section.

(c) For the teacher beginning his or her third year on waiver: (1) competence in language as required by subdivision (a) of Section 44253.5, or (2) continued enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or continued enrollment in a course for the study of language which is established and approved by the State Department of Education, or a program which meets the standards and criteria prescribed by the department under this section.

(d) For the teacher beginning his or her fourth year on waiver: (1) competence in two of the three areas required by Section 44253.5 and (2), for the teacher who is not competent in language, continued enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or continued enrollment in a course for the study of language which is established and approved by the State Department of Education, or a program which meets the standards and criteria prescribed by the department under this section.

SEC. 2. Section 52178.1 is added to the Education Code, to read:

52178.1. Teachers who are on waiver as of July 1, 1984, or whose waiver has expired between June 30, 1983, and September 1, 1984, shall be given a one-year extension, renewable for one year, beyond the fourth year on waiver, in which to acquire competence in the three areas required by Section 44253.5, if the teacher has (1) demonstrated competence in culture and methodology and (2) continued enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or continued enrollment in a course for the study of language which is established or approved by the State Department of Education, or a program which meets the standards and criteria prescribed by the department under this section.

These certifications shall be provided to the State Department of Education on an annual basis for each of the six years the teacher is on waiver, as necessary.

In lieu of these certifications of competence in culture or methodology, as required by subdivision (b) or (c) of Section 44253.5, the district may submit a statement from a bilingual teacher training institution approved by the Commission on Teacher Credentialing that the coursework for that competence has been completed. To receive a bilingual-crosscultural certificate of competence, an applicant shall pass the examinations for all three areas of competence required by Section 44253.5.

The Commission on Teacher Credentialing shall contract with approved assessor agencies to assess separately each of the three competencies required in Section 44253.5. The commission shall arrange for assessments if approved assessor agencies cannot provide them. However, the commission may directly assess these competencies if the commission has been unable to arrange an assessment, and if a staff member is qualified to perform the assessment.

The Legislative Analyst shall, by November 15, 1984, review bilingual language assessments. The review shall include, but not be limited to, all of the following:

(a) The relationship of the language assessed to the language taught in the public schools.

(b) The level of expectation as reflected by required passing scores.

(c) The uniformity of assessment criteria and standards among assessor agencies.

SEC. 3. Section 52178.3 is added to the Education Code, to read:

52178.3. An extension of waivers granted pursuant to Section 52178 shall be granted until July 1, 1985, for teachers teaching in languages for which there is no preparation or examination available for obtaining a certificate of bilingual-crosscultural competence, as determined by the Commission on Teacher Credentialing. The extension of waivers authorized by this section shall not be granted to teachers under waiver teaching in classrooms utilizing either the Spanish language or the Cantonese dialect of the Chinese language.

This section shall become inoperative on July 1, 1985, and as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the State Department of Education to grant waiver extensions pursuant to Section 52178 of the Education Code to teachers beyond their fourth year on waiver as a teacher in bilingual-crosscultural instructional programs, and to authorize

school districts with teachers under waiver to continue to provide instruction without interruption, it is necessary that this act take effect immediately.

CHAPTER 1205

An act to amend Sections 23165, 23170, 23175, 23185, 23190, 23200, 23202, 23204, 23205, 23208, 23209, and 23212 of, and to add Sections 23216 and 23217 to, the Vehicle Code, and to repeal Section 45 of Chapter 940 of the Statutes of 1981, relating to driving offenses.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 23165 of the Vehicle Code is amended to read:

23165. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of a separate violation of Section 23152 or 23153, or a separate violation of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, and resulted in a conviction, that person shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (3) of subdivision (a) of Section 13352.

SEC. 2. Section 23170 of the Vehicle Code is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two separate violations of Section 23152 or 23153, or both, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

SEC. 2.5. Section 23170 of the Vehicle Code is amended to read:

23170. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of two separate violations of Section 23152 or 23153, or Section 23103 as specified in Section 23103.5, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor

vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

SEC. 3. Section 23175 of the Vehicle Code is amended to read:

23175. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of three or more separate violations of Section 23152 or 23153, or both, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

SEC. 3.5. Section 23175 of the Vehicle Code is amended to read:

23175. If any person is convicted of a violation of Section 23152 and the offense occurred within five years of three or more separate violations of Section 23152 or 23153, or Section 23103 as specified in Section 23103.5, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

SEC. 4. Section 23185 of the Vehicle Code is amended to read:

23185. If any person is convicted of a violation of Section 23153 and the offense occurred within five years of a separate violation of Section 23152 or 23153 which resulted in a conviction, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 120 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (4) of subdivision (a) of Section 13352.

SEC. 5. Section 23190 of the Vehicle Code is amended to read:

23190. If any person is convicted of a violation of Section 23153 and the offense occurred within five years of two or more separate violations of Section 23152 or 23153, or both, which resulted in convictions, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand fifteen dollars ($1,015) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (6) of subdivision (a) of Section 13352.

SEC. 6. Section 23200 of the Vehicle Code is amended to read:

23200. (a) In any case charging a violation of Section 23152 or 23153 and the offense occurred within five years of one or more

separate violations of Section 23152 or 23153 which resulted in convictions, or one or more separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, and resulted in one or more convictions, or any combination, or all, of those three provisions, the court shall not strike any separate conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, as provided in this chapter, or for purposes of avoiding revocation, suspension, or restriction of the privilege to operate a motor vehicle, as provided in this code.

(b) In any case charging a violation of Section 23152 or 23153, the court shall obtain a copy of the driving record of the person charged from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more separate violations of Section 23152 or 23153, or both, which resulted in one or more convictions, or one or more separate violations of Section 23103 as specified in Section 23103.5, which occurred on or after January 1, 1982, and resulted in one or more convictions have occurred within five years of the charged offense.

(c) If any separate convictions of violations of Section 23152 or 23153 are reported to have occurred within five years of the charged offense, the court shall notify each court where any of the separate convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23207.

SEC. 7. Section 23202 of the Vehicle Code is amended to read:

23202. (a) In any case in which a person is charged with a violation of Section 23152 or 23153, prior to acquittal or conviction, the court shall not suspend or stay the proceedings for the purpose of allowing the accused person to attend or participate, nor shall the court consider dismissal of or entertain a motion to dismiss the proceedings because the accused person attends or participates during that suspension, in any one or more education, training, or treatment programs, including, but not limited to, a driver improvement program, a treatment program for persons who are habitual users of alcohol or other alcoholism program, a program designed to offer alcohol services to problem drinkers, an alcohol or drug education program, or a treatment program for persons who are habitual users of drugs or other drug-related program.

(b) This section shall not apply to any attendance or participation in any education, training, or treatment programs after conviction and sentencing, including attendance or participation in any of those programs as a condition of probation granted after conviction when permitted pursuant to this article.

SEC. 8. Section 23204 of the Vehicle Code is amended to read:

23204. If a person's privilege to operate a motor vehicle is required or ordered to be suspended or revoked by the Department of Motor Vehicles pursuant to other provisions of this code upon the conviction of an offense of this article, at the time for sentencing, that

person shall be present in court and each and every operator's license of that person shall be surrendered to the court. The court shall transmit the license or licenses to the Department of Motor Vehicles pursuant to Section 13550, and the court shall notify the department.

This section does not apply to an administrative proceeding by the Department of Motor Vehicles to suspend or revoke the driving privilege of any person pursuant to other provisions of law.

SEC. 9. Section 23205 of the Vehicle Code is amended to read:

23205. (a) Upon any conviction of a violation of Section 23152 or 23153, any judge of the court may order a presentence investigation to determine whether a person convicted of the violation would benefit from one or more education, training, or treatment programs, and the court may order suitable education, training, or treatment for the person, in addition to imposing any penalties required by this code.

(b) In determining whether to require, as a condition of probation, the participation in a program pursuant to subdivision (b) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23171, subdivision (b) of Section 23176, subdivision (b) of Section 23181, subdivision (b) of Section 23186, or subdivision (b) of Section 23191, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required by subdivision (a), or other screening procedure. No such information shall be furnished to the court, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

SEC. 9.5. Section 23205 of the Vehicle Code is amended to read:

23205. (a) Upon any conviction of a violation of Section 23152 or 23153, any judge of the court may order a presentence investigation to determine whether a person convicted of the violation would benefit from one or more education, training, or treatment programs, and the court may order suitable education, training, or treatment for the person, in addition to imposing any penalties required by this code.

(b) In determining whether to require, as a condition of probation, the participation in a program pursuant to subdivision (b) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23171, subdivision (b) of Section 23176, subdivision (b) of Section 23181, subdivision (b) of Section 23186, or subdivision (b) of Section 23191, the court may consider any relevant information about the person made available pursuant to a presentence investigation, which is permitted but not required by subdivision (a), or other screening procedure. No such information shall be furnished

to the court, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

(c) The Judicial Council shall adopt a standard form for use by all courts, defendants, and alcohol or drug education programs in certifying to the court that the person (1) has enrolled within the specified time period, and (2) has successfully completed any program required by Section 23161 or 23181.

SEC. 10. Section 23208 of the Vehicle Code is amended to read:

23208. (a) In any proceedings to have a judgment of conviction of a violation of Section 23152 or 23153, which was entered in a separate proceeding, declared invalid on constitutional grounds, the defendant shall state in writing and with specificity wherein the defendant was deprived of the defendant's constitutional rights, which statement shall be filed with the clerk of the court and a copy served on the court that rendered that judgment and on the prosecuting attorney in the present proceedings at least five court days prior to the hearing thereon.

(b) The court shall, prior to the trial of any pending criminal action against the defendant wherein these separate conviction is charged as such, hold a hearing, outside of the presence of the jury, in order to determine the constitutional validity of the charged separate conviction issue. At the hearing the procedure, the burden of proof, and the burden of producing evidence shall be as follows:

(1) The burden of proof remains with the prosecution throughout and is that of beyond a reasonable doubt.

(2) The prosecution shall initially have the burden of producing evidence of the separate conviction sufficient to justify a finding that the defendant has suffered that separate conviction.

(3) After the production of evidence required by paragraph (2), the defendant then has the burden of producing evidence that the defendant's constitutional rights were infringed in the separate proceeding at issue.

(4) If the defendant bears this burden successfully, the prosecution shall have the right to produce evidence in rebuttal.

(5) The court shall make a finding on the basis of the evidence thus produced and shall strike from the accusatory pleading any separate conviction found to be constitutionally invalid.

SEC. 10.5. Section 23208 of the Vehicle Code is amended and renumbered to read:

41403. (a) In any proceedings to have a judgment of conviction of a violation of Section 14601, 14601.1, 14601.2, 23152, or 23153, or Section 23103 as specified in Section 23103.5, which was entered in a separate proceeding, declared invalid on constitutional grounds, the defendant shall state in writing and with specificity wherein the

defendant was deprived of the defendant's constitutional rights, which statement shall be filed with the clerk of the court and a copy served on the court that rendered that judgment and on the prosecuting attorney in the present proceedings at least five court days prior to the hearing thereon.

(b) Except as provided in subdivision (c), the court shall, prior to the trial of any pending criminal action against the defendant wherein the separate conviction is charged as such, hold a hearing, outside of the presence of the jury, in order to determine the constitutional validity of the charged separate conviction issue. At the hearing the procedure, the burden of proof, and the burden of producing evidence shall be as follows:

(1) The burden of proof remains with the prosecution throughout and is that of beyond a reasonable doubt.

(2) The prosecution shall initially have the burden of producing evidence of the separate conviction sufficient to justify a finding that the defendant has suffered that separate conviction.

(3) After the production of evidence required by paragraph (2), the defendant then has the burden of producing evidence that the defendant's constitutional rights were infringed in the separate proceeding at issue. If the separate conviction sought to be invalidated is based upon a plea of guilty or nolo contendere, the defendant shall provide the court with evidence of the prior plea, including the court docket, written waivers of consitutional rights executed by the defendant, and transcripts of the relevant court proceedings at the time of the entry of the defendant's plea. These records shall be provided to the defendant without cost to him or her, when the defendant is represented by the public defender or counsel appointed pursuant to Section 987.2 of the Penal Code.

(4) If the defendant bears this burden successfully, the prosecution shall have the right to produce evidence in rebuttal.

(5) The court shall make a finding on the basis of the evidence thus produced and shall strike from the accusatory pleading any separate conviction found to be constitutionally invalid.

(c) If the defendant fails to comply with the notice requirement of subdivision (a) or fails to produce the evidence required by paragraph (3) of subdivision (b), the court shall hear the motion at the time of sentencing in lieu of continuing the trial, unless good cause is shown for failure to provide notice pursuant to subdivision (a) or produce the evidence required by paragraph (3) of subdivision (b), in which case the court shall grant a continuance of the trial for a reasonable period. The procedure, burden of proof, and burden of producing evidence as provided in subdivision (b) shall apply regardless of when the motion is heard.

SEC. 11. Section 23209 of the Vehicle Code is amended to read:

23209. Only one challenge shall be permitted to the constitutionality of a separate conviction of a violation of Section 14601, 14601.2, 23152, or 23153, which was entered in a separate proceeding. When a proceeding to declare a separate judgment of

conviction constitutionally invalid has been held, a determination by the court that the separate conviction is constitutional precludes any subsequent attack on constitutional grounds in a subsequent prosecution in which the same separate conviction is charged. In addition, any determination that a separate conviction is unconstitutional precludes any allegation or use of that separate conviction in any judicial or administrative proceeding, and the department shall strike that separate conviction from its records. Pursuant to Section 1803, the court shall report to the Department of Motor Vehicles any determination upholding a conviction on constitutional grounds and any determination that a conviction is unconstitutional.

This section shall not preclude a subsequent challenge to a conviction if, at a later time, a subsequent statute or appellate court decision having retroactive application affords any new basis to challenge the constitutionality of the conviction.

SEC. 12. Section 23212 of the Vehicle Code is amended to read:

23212. When an allegation of a violation of Section 23152 is dismissed by the court, an allegation of a different or lesser offense is substituted for an allegation of a violation of Section 23152, or an allegation of a separate conviction is dismissed or stricken, the court shall specify on the record its reason or reasons for the order. The court shall also specify on the record whether the dismissal, substitution, or striking was requested by the prosecution and whether the prosecution concurred in or opposed the dismissal, substitution, or striking.

When the prosecution makes a motion for a dismissal or substitution, or for the striking of a separate conviction, the prosecution shall submit a written statement which shall become part of the court record and which gives the reasons for the motion. The reasons shall include, but need not be limited to, problems of proof, the interests of justice, why another offense is more properly charged, if applicable, and any other pertinent reasons. If the reasons include the "interests of justice", the written statement shall specify all of the factors which contributed to this conclusion.

SEC. 13. Section 23216 is added to the Vehicle Code, to read:

23216. (a) The provisions of Sections 2, 6, 7, and 10 expressly apply to the provisions of this article, and, further, for any recidivist or enhancement purpose, reference to an offense by section number is a reference to the provisions contained in that section, insofar as they were renumbered by Chapter 940 of the Statutes of 1981 without substantive change, and those provisions shall be construed as restatements and continuations thereof and not as new enactments.

(b) Any reference in the provisions of this code to a separate violation of Section 23152 shall include a separate offense under Section 23102 or 23105, as those sections read prior to January 1, 1982.

(c) Any reference in the provisions of the Vehicle Code to a separate violation of Section 23153 shall include a separate offense

under Section 23101 or 23106 as those sections read prior to January 1, 1982.

(d) The provisions of this section are to be given retroactive effect.

SEC. 14. Section 23217 is added to the Vehicle Code, to read:

23217. The Legislature finds and declares that some repeat offenders of the prohibition against driving under the influence of alcohol or drugs, when they are addicted or when they have too much alcohol in their systems, may be escaping the intent of the Legislature to punish the offender with progressively greater severity if the offense is repeated one or more times within a five-year period. This situation may occur when a conviction for a subsequent offense occurs before a conviction is obtained on an earlier offense.

The Legislature further finds and declares that the timing of court proceedings should not permit a person to avoid aggravated mandatory minimum penalties for multiple separate offenses occurring within a five-year period. It is the intent of the act enacting this section, in changing the word "prior" to the word "separate," to provide that a person be subject to enhanced mandatory minimum penalties for multiple offenses within a period of five years, regardless of whether the convictions are obtained in the same sequence as the offenses had been committed.

Nothing in this section shall require consideration of judgment of conviction in a separate proceeding which is entered after the judgment in the present proceeding, except as it relates to violation of probation.

Nothing in this section or the amendments to Section 23165, 23170, 23175, 23185, 23190, 23200, or 23202 made by the act enacting this section affects the penalty for a violation of Section 23152 or 23153 occurring prior to January 1, 1985.

SEC. 15. Section 45 of Chapter 940 of the Statutes of 1981 is repealed.

SEC. 16. The Legislature hereby declares that the intent of the repeal of Section 45 of Chapter 940 of the Statutes of 1981 by Section 15 of this act is only to remove a provision of law made unnecessary by the addition of Section 23216 of the Vehicle Code by Section 13 of this act, and that it is the intent of the Legislature that the provisions of Section 23216 of the Vehicle Code are to be given retroactive effect.

SEC. 17. Section 2.5 of this bill incorporates amendments to Section 23170 of the Vehicle Code proposed by both this bill and AB 3509. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 23170 of the Vehicle Code, and (3) this bill is enacted after AB 3509, in which case Section 23170 of the Vehicle Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 3509, at which time Section 2.5 of this bill shall become operative.

SEC. 18. Section 3.5 of this bill incorporates amendments to Section 23175 of the Vehicle Code proposed by both this bill and AB 3509. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 23175 of the Vehicle Code, and (3) this bill is enacted after AB 3509, in which case Section 23175 of the Vehicle Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 3509, at which time Section 3.5 of this bill shall become operative.

SEC. 19. Section 9.5 of this bill incorporates amendments to Section 23205 of the Vehicle Code proposed by both this bill and SB 2232. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 23205 of the Vehicle Code, and (3) this bill is enacted after SB 2232, in which case Section 9 of this bill shall not become operative.

SEC. 20. Section 10.5 of this bill incorporates amendment and renumbering of Section 23208 of the Vehicle Code proposed by both this bill and AB 3720. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill affects Section 23208 of the Vehicle Code, and (3) this bill is enacted after AB 3720, in which case Section 10 of this bill shall not become operative.

SEC. 21. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1206

An act to amend Section 9714 of, and to add Section 9714.5 to, the Welfare and Institutions Code, relating to long-term care.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984]

The people of the State of California do enact as follows:

SECTION 1. Section 9714 of the Welfare and Institutions Code is amended to read:

9714. The office may solicit and receive funds, gifts, and contributions to support the operations and programs of the office. The office may form a foundation eligible to receive tax-deductible contributions to support the operations and programs of the office. The office shall not solicit or receive any funds, gifts, or contributions

where the solicitation or receipt would jeopardize the independence and objectivity of the office.

SEC. 2. Section 9714.5 is added to the Welfare and Institutions Code, to read:

9714.5. (a) The foundation formed pursuant to Section 9714 shall be under the direction and management of a five-member board of directors. One member shall be appointed by the Speaker of the Assembly, one member shall be appointed by the Senate Rules Committee, and three shall be appointed by the Governor. The members of the board shall each be experienced in the management, promotion, and funding of nonprofit charitable organizations.

(b) The board shall select from among its members a chair, a vice chair, and any other officers as it deems necessary.

(c) The members of the board shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties as directors.

(d) Three members of the board shall constitute a quorum for the purpose of conducting the board's business.

(e) By July 1 of each year, the board shall determine the amount of funds to be appropriated from the foundation to the Office of the State Long-Term Care Ombudsman for the support of its operations and programs. Foundation funds may only be appropriated for the support of the operations and programs of the Office of the State Long-Term Care Ombudsman.

CHAPTER 1207

An act to amend Sections 278, 278.5, 279, and 784.5 of, and to add Section 277 to, the Penal Code, relating to child abduction.

[Approved by Governor September 16, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 277 is added to the Penal Code, to read:

277. In the absence of a court order determining rights of custody or visitation to a minor child, every person having a right of custody of the child who maliciously takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of one thousand dollars ($1,000), or both, or by imprisonment in the state prison for a period of one year and one day, a fine of five thousand dollars ($5,000), or both.

A subsequently obtained court order for custody or visitation shall not affect the application of this section.

For the purposes of this section, "a person having a right of custody" means the legal guardian of the child or a person who has a parent and child relationship with the child pursuant to Section 197 of the Civil Code.

SEC. 2. Section 278 of the Penal Code is amended to read:

278. Every person, not having a right of custody, who maliciously takes, detains, conceals, or entices away, any minor child with intent to detain or conceal that child from a person, guardian, or public agency having the lawful charge of the child shall be punished by imprisonment in the state prison for two, three or four years, a fine of not more than ten thousand dollars ($10,000), or both, or imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

SEC. 3. Section 278.5 of the Penal Code is amended to read:

278.5. (a) Every person who in violation of the physical custody or visitation provisions of a custody order, judgment, or decree takes, detains, conceals, or retains the child with the intent to deprive another person of his or her rights to physical custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars ($10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(b) Every person who has a right to physical custody of or visitation with a child pursuant to an order, judgment, or decree of any court which grants another person, guardian, or public agency right to physical custody of or visitation with that child, and who within or without the state detains, conceals, takes, or entices away that child with the intent to deprive the other person of that right to custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars ($10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

SEC. 4. Section 279 of the Penal Code is amended to read:

279. (a) A peace officer investigating a report of a violation of Section 277, 278, or 278.5 may take a minor child into protective custody if it reasonably appears to the officer that any person unlawfully will flee the jurisdictional territory with the minor child.

(b) A child who has been detained or concealed shall be returned to the person, guardian, or pubic agency having lawful charge of the child, or to the court in which a custody proceeding is pending, or to the probation department of the juvenile court in the county in which the victim resides.

(c) The offenses enumerated in Sections 277, 278, and 278.5 are continuous in nature, and continue for so long as the minor child is concealed or detained.

(d) Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Those

expenses, and costs reasonably incurred by the victim, shall be assessed against any defendant convicted of a violation of Section 277, 278, or 278.5.

(e) Pursuant to Sections 27 and 778, violation of Section 277, 278, or 278.5 is punishable in California, whether the intent to commit the offense is formed within or without the state, if the child was a resident of California or present in California at the time of the taking, or if the child thereafter is found in California.

SEC. 5. Section 784.5 of the Penal Code is amended to read:

784.5. The jurisdiction of a criminal action for a violation of Section 277, 278, or 278.5 shall be in any one of the following jurisdictional territories:

(a) Any jurisdictional territory in which the victimized person resides, or where the agency deprived of custody is located, at the time of the taking or deprivation.

(b) The jurisdictional territory in which the minor child was taken, detained, or concealed.

(c) The jurisdictional territory in which the minor child is found.

When the jurisdiction lies in more than one jurisdictional territory, the district attorneys concerned may agree which of them will prosecute the case.

SEC. 6. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1208

An act to amend Sections 71603.3, 74023, 74025, 74030, 74956, and 74981 of, and to add and repeal Section 74949.1 to, the Government Code, relating to courts.

[Approved by Governor September 16, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 71603.3 of the Government Code, as amended by Chapter 189 of the Statutes of 1984, is amended to read:

71603.3. Notwithstanding the provisions of Sections 71602 and 71603, the board of supervisors of a county of the 34th class, 43rd class, 51st class, or of the 54th class may by ordinance abolish the office of constable and, instead, require that the duties of constable be performed by the sheriff.

SEC. 1.5. Section 74023 of the Government Code is amended to read:

74023. The municipal court administrator shall appoint, in accordance with Placer County civil service rules, all of the following:

(a) Two supervising municipal court clerks for the court, who shall perform such duties as may be required by the court or the judges.

(b) Three senior municipal court clerks.

(c) Fifteen full-time and two half-time deputy clerks, who shall be municipal court clerks I or II.

(d) One deputy clerk, who shall be a jury clerk.

SEC. 2. Section 74025 of the Government Code is amended to read:

74025. The marshal shall appoint, in accordance with Placer County civil service rules, the following:

(a) One deputy marshal who shall be the Supervising Deputy Marshal.

(b) Four deputy marshals.

SEC. 3. Section 74030 of the Government Code is amended to read:

74030. (a) The positions enumerated in Sections 74022 to 74026, inclusive, shall receive a biweekly salary at Step A of the range set forth below, as provided in Chapter 14 of the Placer County Code.

Step increases may be awarded at 5 percent at the end of the first six months and thereafter 5 percent annually for the next 48 months to a maximum of 20 percent over the amount specified as Step A:

Position	Salary Range
Municipal Court Administrator	45.5
Supervising Municipal Court Clerk	33.5
Senior Municipal Court Clerk	31.5
Deputy Clerk, Municipal Court Clerk I	28.5
Deputy Clerk, Municipal Court Clerk II	30.5
Deputy Clerk, Jury Clerk	31.5
Marshal	17.5
Chief Deputy Marshal	84.4
Deputy Marshal	84.2

The marshal, supervising deputy marshal, and deputy marshals are authorized incentive pay in addition to the above rates, as follows:

Five percent more than prescribed in this section when in possession of an intermediate peace officers standards and training certificate and an additional 2½ percent more than prescribed in this section when in possession of an advanced peace officers standards and training certificate.

(b) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to em-

ployees of municipal courts and marshals' offices and conversion of the new schedule shall be made for such employees in the same manner on the same date as for such other county employees. Also, employees and officers of the municipal court shall be entitled to all employee benefits as they are now provided and made applicable to positions within county service. All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provisions of state law shall be governed by the personnel provisions of the Placer County Code. Any changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire January 1, of the second calendar year following such changes unless ratified by the Legislature.

SEC. 4. Section 74949.1 is added to the Government Code, to read:

74949.1. The judges of the Napa Municipal Court may appoint one full-time or part-time commissioner who shall hold office at the pleasure of the judges making the appointment, and shall possess the same qualifications as are required of the judge of a municipal court. Within the jurisdiction of the court, and to the extent the judges so direct, the commissioner shall exercise the same powers and duties as a judge of the municipal court with respect to any infraction or small claims action, and shall exercise all other powers and perform all other duties of the municipal court commissioner that may be prescribed by law. In addition, and notwithstanding the provisions of Section 72400, the commissioner shall act as a traffic referee and shall have powers specified in Sections 72401, 72402, and 72403.

The commissioner shall receive a monthly salary at a rate equal to 65 percent of the salary of a municipal court judge. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the clerk of the Napa Municipal Court. If the appointment of the commissioner is on a part-time basis, the salary and fringe benefits shall be prorated on the basis of a forty-hour work week.

A full-time commissioner shall not engage in the private practice of the law. Notwithstanding any other provisions of law, a temporary commissioner shall not engage in the private practice of law before any court of the municipal court district to which he or she is appointed.

Before any action or proceeding is tried or heard by a part-time court commissioner, any party to, or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by oral or written motion without notice, that the action or proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a judge, court commissioner, or referee of the court. The court shall, prior to the commencement of any such trial or hearing provide notice to each party or attorney of record in the action or proceeding of this entitle-

ment to require reassignment or transfer.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

SEC. 5. Section 74956 of the Government Code is amended to read:

74956. (a) There shall also be the following court employee positions, whose numbers and salary range on the standard salary schedule of the County of Napa shall be as specified:

Position title	Number of positions	Salary range
Assistant clerk of the court	1	B089
Supervising court clerk	2	B048
Senior municipal court clerk	2	A129
Account clerk III	1	A109
Deputy clerk III	6	A089
Deputy clerk II - interpreter	1	A089
Deputy clerk II	2	A069

(b) Each such person employed on the effective date of this article in the office of the clerk of the municipal court shall receive credit for prior continuous service in office, including service in a court superseded upon the establishment of the municipal court.

SEC. 6. Section 74981 of the Government Code is amended to read:

74981. There shall be one judge of the Redding Municipal Court; provided, however, that at such time as the board of supervisors consolidates the Anderson Judicial District, the Central Valley Judicial District, or the Burney Judicial District with the Redding Judicial District and adopts a resolution finding that, for each such justice court district so consolidated, the judicial workload of the Redding Municipal Court requires another judge accordingly, and stating that there are sufficient funds available therefor, there shall be one additional judge of the Redding Municipal Court for each justice court district so consolidated.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1209

An act to amend Section 11479 of, and to add Section 11479.2 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11479 of the Health and Safety Code is amended to read:

11479. Notwithstanding the provisions of Sections 11474 and 11474.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Notwithstanding the provisions of Sections 11474 and 11474.5, at any time after seizure by a law enforcement agency of a suspected hazardous chemical believed to have been used or intended to have been used in the unlawful manufacture of controlled substances, that amount in excess of two fluid ounces if liquid, or two avoirdupois ounces if solid, and its container, may be disposed of without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. When the suspected controlled substance consists of growing or harvested marijuana plants, at least one 10 pound sample (which may include stalks, branches, or leaves) and five representative samples consisting of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed.

(b) At least one 2-ounce sample has been taken from each suspected hazardous chemical to be destroyed.

(c) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance or container of the suspected hazardous chemical sampled and to be destroyed.

(d) The gross weight of the suspected controlled substance or suspected hazardous chemical has been determined, either by actually weighing the suspected controlled substance or suspected hazardous chemical, or by estimating such weight after dimensional measurement of the total suspected controlled substance or container of the suspected hazardous chemical.

(e) The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance

to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), (d), and (e) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending which pertain to that suspected controlled substance, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom such criminal charges might be filed.

Subsequent to any disposal of a suspected hazardous chemical and its container pursuant to this section, the law enforcement agency involved shall maintain records concerning the details of its compliance with, and reciting the applicable information required by, subdivisions (a), (b), (c), (d), and (e), together with the information establishing the location of the suspected hazardous chemical and its container, and specifying the date and time of the disposal.

A law enforcement agency responsible for the disposal of any hazardous chemical shall comply with the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as well as all applicable state and federal laws and regulations.

For the purposes of this section, "hazardous chemical" means any material that is believed by the chief of the law enforcement agency to be toxic, carcinogenic, explosive, corrosive, or flammable, and that is believed by the chief of the law enforcement agency to have been used or intended to have been used in the unlawful manufacture of controlled substances.

SEC. 2. Section 11479.2 is added to the Health and Safety Code, to read:

11479.2. Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, except marijuana, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh

not less than one gram at the time the sample is collected.

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

(d) In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

(e) The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

(f) The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing, a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which ordered destruction stating the location of the

retained, suspected controlled substance and specifying the date and time of destruction.

CHAPTER 1210

An act to amend Sections 9303, 9304, 9306, 9307, 9309, 9310, 9313, 9314, 9315, 9316, 9317, 9318, 9320, and 9321 of, to add Sections 9303.5 and 9304.1 to, and to repeal Chapter 17.6 (commencing with Section 9300) of Division 3 of, the Business and Professions Code, relating to polygraph examiners and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 9303 of the Business and Professions Code is amended to read:

9303. On or after January 1, 1985, no person shall engage in conducting polygraph examinations, refer to himself or herself as a polygraph examiner, or offer or advertise his or her services as a polygraph examiner unless he or she is licensed under this chapter. This act does not apply to any employee of the United States of America while the employee is engaged in the performance of his or her official duties. Violation of this section shall be punishable as a misdemeanor.

SEC. 1.5. Section 9303.5 is added to the Business and Professions Code, to read:

9303.5. Nothing in this chapter shall be construed as restricting, or interfering with, the activities of a psychologist licensed pursuant to the provisions of Chapter 6.6 (commencing with Section 2900) of Division 2, provided the psychologist does not use polygraph instruments except for research or the clinical practice of psychology, or hold himself or herself out as a polygraph examiner.

SEC. 2. Section 9304 of the Business and Professions Code is amended to read:

9304. The director shall administer and enforce the provisions of this chapter.

(a) There is in the Department of Consumer Affairs a Polygraph Examiners Board. The Polygraph Examiners Board shall consist of a total of five members, two of whom shall be polygraph examiners and three of whom shall be public members. Each member shall be a citizen of the United States and a resident of this state for at least two consecutive years prior to appointment. The two polygraph examiners shall have been engaged for a period of two consecutive years as polygraph examiners prior to appointment to the board. The polygraph examiners initially appointed to the board shall become

licensed pursuant to this chapter by January 1, 1986, or shall automatically forfeit office, and each polygraph examiner appointed to the board thereafter shall be licensed pursuant to this chapter. One polygraph examiner member shall be from a governmental agency and one polygraph examiner member shall be from the private sector.

(b) The Governor shall appoint the two polygraph examiner members and one public member. The Senate Rules Committee shall appoint one public member. The Speaker of the Assembly shall appoint one public member.

(c) Members of the board shall serve for a term of four years. No person shall serve more than two consecutive terms.

(d) The board may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the administration of this chapter. The regulations shall be adopted, amended, or repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

(f) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

(g) The board shall establish a prescribed course of training.

(h) The board shall establish a standard for the instruction of interns.

(i) The board shall prescribe form and content of the licensing examinations. The board shall meet within 30 days after the effective date of this chapter and elect a chairman, vice chairman, and secretary from among its members. When the form and content of the examination is finally prescribed, the board shall specify dates on which examinations for polygraph examiners' licenses will be held.

(j) The board shall issue, suspend, or revoke any license.

(k) All proceedings for the denial, suspension, or revocation of a license shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 2.5. Section 9304.1 is added to the Business and Professions Code, to read:

9304.1. Nothing in this chapter shall be construed to restrict or prevent the appointment of persons to the Polygraph Examiners Board prior to January 1, 1985, or to restrict the activities of those board members in preparing for the administration of this chapter following their appointment, including, but not limited to, the employment of staff, necessary travel, and securing of office premises.

SEC. 3. Section 9306 of the Business and Professions Code is amended to read:

9306. (a) To become an intern, an applicant shall satisfy subdivisions (a) and (b) of Section 9307.

(b) To receive a general license, an applicant shall satisfy subdivisions (a) to (d), inclusive, of Section 9307. An intern shall receive a general license upon satisfaction of subdivisions (c) and (d) of Section 9307. The board shall require such proof as is necessary to establish satisfaction of the additional requirements.

SEC. 4. Section 9307 of the Business and Professions Code is amended to read:

9307. Any applicant for a license as a general polygraph examiner shall comply with all of the following:

(a) Have a high school diploma or equivalent.

(b) Have graduated from a polygraph examiner's course approved by the board.

(c) Have completed not less than 200 polygraph examinations, of which 100 shall be "specific" examinations.

(d) Have successfully completed an examination administered by the board.

Any individual meeting the provisions of subdivisions (a), (b), and (c) shall be issued a license unless grounds exist for the denial of the license. Persons issued a license pursuant to this paragraph shall be required to successfully pass the examination administered by the board within 12 months of the date of issuance of the license.

SEC. 5. Section 9309 of the Business and Professions Code is amended to read:

9309. The board may grant a general license as a polygraph examiner in this state to a person who is licensed as a polygraph examiner by another state, or territory of the United States, without examination, upon application by that person, if the board finds each of the following:

(a) That the state or territory in which the person is licensed at the date of the issuance of the license by the other state or territory, had substantially equivalent licensure requirements as this state currently has, as determined by the board pursuant to the requirements of Section 9307.

(b) That the state or territory grants similar reciprocity to license holders of this state.

SEC. 6. Section 9310 of the Business and Professions Code is amended to read:

9310. A general license or an intern license shall be valid for a period of two years and shall be renewed by the board, upon evidence that the license holder has successfully completed 24 hours of polygraph training of the kind approved by the board within two years prior to the expiration of the holder's license.

SEC. 7. Section 9313 of the Business and Professions Code is amended to read:

9313. (a) The board may refuse to issue or may revoke or suspend the license of any person as a polygraph examiner or intern on proof the person has done any of the following:

(1) Failed to inform an individual being examined as to the nature of the examination or failed to advise the individual or his or her

representative, or the representative of the requesting agency, of the results of the examination.

(2) Failed to inform an individual being examined that his or her participation in the examination is voluntary, except as provided in Section 432.2 of the Labor Code.

(3) Made a material misstatement in his or her application for an original or renewal license under this chapter.

(4) Willfully disregarded or violated any provisions of this chapter or any regulation adopted pursuant thereto, including, but not limited to, the willful making of a false report of a polygraph examination.

(5) Has demonstrated physical or emotional inability or incompetency to carry out the duties of a polygraph examiner.

(6) Has permitted a license granted to him or her under this chapter to be used by another person.

(7) Has willfully aided or abetted any violation of this chapter or any regulation adopted pursuant thereto.

(8) Has failed to provide any information requested by the board after the receipt by the board of a complaint alleging that the person has violated a provision of this chapter or any regulation adopted pursuant thereto.

(9) If the applicant or holder of any license has committed any crime or act constituting grounds for denial, suspension, or revocation under the provisions of Division 1.5 (commencing with Section 475).

(b) Any allegation of misconduct committed, or alleged to have been committed by any person acting as an agent of this state or any political subdivision thereof, shall be referred to the Attorney General for investigation. The Attorney General shall forward the results of the investigation to the board for appropriate action.

SEC. 8. Section 9314 of the Business and Professions Code is amended to read:

9314. Any unlawful act or violation of any of the provisions of this chapter on the part of any polygraph examiner or intern shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or intern may have been employed, unless it shall appear to the satisfaction of the board, that the polygraph examiner-employer has willfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or intern.

SEC. 9. Section 9315 of the Business and Professions Code is amended to read:

9315. Upon receipt of written notification of the suspension or revocation by the board of his or her license, a polygraph examiner or intern shall surrender immediately his or her license to the board. The board may restore a suspended or revoked license to the prior holder thereof, if the board has completed a noticed hearing into the matter, and has voted to reinstate the license.

SEC. 10. Section 9316 of the Business and Professions Code is

amended to read:

9316. Except as provided in Section 432.2 of the Labor Code, no examination shall be conducted or administered by a polygraph examiner unless the polygraph examiner makes known to the examinee each of the following:

(a) That the taking of the examination is a voluntary act on his or her part.

(b) That he or she may decline to take the examination and the declination shall not be construed to disadvantage him or her in any manner.

(c) The subject matter, or area of inquiry and the questions to be asked during the examination, which questions shall be read aloud prior to the instrumental examination. The person to be examined may be asked to sign a written statement acknowledging that the requirements of this section have been complied with by the polygraph examiner and may be asked to sign a written statement consenting to the disclosure of the examination results.

SEC. 11. Section 9317 of the Business and Professions Code is amended to read:

9317. (a) On and after January 1, 1985, any polygraph instrument used to test or question individuals for the purpose of determining the truthfulness of statements made by the individuals, shall be of the type approved by the board. To be approved, each type of instrument shall record visually, permanently, and simultaneously at least the cardiovascular pattern, the respiratory pattern, and the galvanic skin resistance pattern of each individual. The patterns of other physiological changes of any such individual may also be recorded.

(b) Nothing in this chapter shall be construed to restrict development of improved equipment or techniques.

SEC. 12. Section 9318 of the Business and Professions Code is amended to read:

9318. (a) A polygraph examiner shall prominently display his or her license at his or her place of business or employment, and an intern shall display prominently the intern license at the place of his or her internship.

(b) A polygraph examiner shall notify the board in writing of any change in his or her principal place of business within 30 days after the date of the change. Failure to comply with the provisions of this subdivision shall constitute grounds for administrative disciplinary actions.

SEC. 13. Section 9320 of the Business and Professions Code is amended to read:

9320. The board shall receive and account for all fees and revenues derived from the operation of this chapter, and at the end of each month shall report the fees and revenues to the Controller and shall pay them to the Treasurer, who shall keep the fees and revenues in a separate fund known as the Polygraph Examiners Fund. Fees and revenues contained in this fund shall be available to

the board for carrying out the provisions of this chapter when appropriated therefor by the Legislature.

SEC. 14. Section 9321 of the Business and Professions Code is amended to read:

9321. (a) The amount of fees relating to licensure pursuant to this chapter shall be as follows:

(1) The application fee is fifty dollars ($50).

(2) The initial license fee is two hundred dollars ($200).

(3) The renewal fee is two hundred dollars ($200).

(4) Notwithstanding Section 163.5, the late renewal fee is fifty dollars ($50).

(b) The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Polygraph Examiners Fund, which sum shall be a loan to be repaid to the General Fund with interest at the rate earned by moneys invested in the Pooled Money Investment Account and which shall be repaid during the 1985–86 fiscal year from funds collected pursuant to the Polygraph Examiners Act.

SEC. 14.5. Chapter 17.6 (commencing with Section 9300) of Division 3 of the Business and Professions Code is repealed.

This section shall be operative on January 1, 1989.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Chapter 1107 of the Statutes of 1983 required any person engaged in polygraph examination on and after January 1, 1984, to be licensed by the Board of Polygraph Examiners which board was also created by that chapter. The chapter also required polygraph instruments used after January 1, 1984, to be of a type approved by the board. As there has been insufficient time for implementation, polygraph examiners cannot practically become licensed or use instruments approved by the board. In order to prevent polygraph examiners from being required to practice in technical violation of the law to maintain their livelihood it is necessary that this act go into immediate effect.

CHAPTER 1211

An act to amend Sections 1274.10, 9614, and 10211 of, to amend and renumber Sections 1274.1, 1274.2, 1274.3, 1274.35, 1274.4, 1274.6, 1274.7, and 1274.8 of, to amend and renumber the heading of Article 1.8 (commencing with Section 1274) of Chapter 5 of Part 1 of Division 1 of, to amend, renumber, and add Section 1274 of, and to repeal Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1 of Division 1 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 16, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 2. The heading of Article 1.8 (commencing with Section 1274) of Chapter 5 of Part 1 of Division 1 of the Unemployment Insurance Code is amended and renumbered to read:

Article 1.5. Retraining Benefits

SEC. 3. Section 1274 of the Unemployment Insurance Code is amended and renumbered to read:

1266. Experience has shown that the ability of a large number of the population of California to compete for jobs in the labor market is impaired by advancement in technological improvements, the widespread effects of automation and relocation in our economy, and foreign competition as set forth in petitions certified under the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.). The Legislature finds that many individuals in California are lacking in skills which would make them competitive in the labor market. They are in need of training or retraining in skills required in demand occupations. It is the policy of this state to assist these individuals by providing unemployment compensation benefits, extended duration benefits, and other federally funded unemployment compensation benefits, including those available under the federal Trade Act of 1974 (P.L. 93-618), as amended, during a period of retraining to qualify them for new jobs in demand occupations and thus avoid long-term unemployment.

SEC. 4. Section 1274.1 of the Unemployment Insurance Code is amended and renumbered to read:

1267. Notwithstanding any other provision of this division, with respect to an unemployed individual otherwise eligible for benefits, such benefits shall not be denied to an individual for any week because he or she is in training or retraining with the approval of the director, or because of the application to any such week in training or retraining of any law of this state relating to availability for work, active search for work, refusal to accept work, or for leaving his or her most recent work, if continuing the most recent work would require the individual to terminate his or her training or retraining course of instruction. The individual is considered to be in training or retraining during regularly scheduled vacation or recess periods, such as Christmas and Thanksgiving holidays, or semester breaks, but not during a summer vacation period. As used in this article, "individual" includes an exhaustee as defined in Section 3503, and any individual claiming federal-state extended benefits under Part 4

(commencing with Section 4001), and anyone receiving federally funded unemployment compensation benefits.

SEC. 5. Section 1274.2 of the Unemployment Insurance Code is amended and renumbered to read:

1268. An unemployed individual who files a claim for unemployment compensation benefits or extended duration benefits, or an application for federal-state extended benefits or any federally funded unemployment compensation benefits, may apply to the department for a determination of potential eligibility for benefits during a period of training or retraining.

SEC. 6. Section 1274.3 of the Unemployment Insurance Code is amended and renumbered to read:

1269. A determination of potential eligibility for benefits under this article shall be issued to an unemployed individual if the director finds that any of the following conditions apply:

(a) The training is authorized by Title III of the federal Job Training Partnership Act or by Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(b) The training is performance-based and authorized by Division 8 (commencing with Section 15000) or by the federal Job Training Partnership Act (P.L. 97-300).

(c) That all of the following apply:

(1) The individual has been unemployed for four or more continuous weeks, or the individual is unemployed and unlikely to return to his or her most recent workplace because work opportunities in the individual's job classification are impaired by a plant closure or a substantial reduction in employment at the individual's most recent workplace, or by advancement in technological improvements, the effects of automation and relocation in the economy, and foreign competition as set forth in petitions certified under the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.), or because of a mental or physical disability which prohibits the individual from utilizing existing occupational skills.

(2) One of the substantial causes of the individual's continuous unemployment is a lack of sufficient demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity and that the lack of employment opportunities is expected to continue for an extended period of time, or, if the individual's occupation is one for which there is a seasonable variation in demand in the labor market, that the lack of demand for the individual's skills is the result of a decline in demand, expected to continue for an extended period of time and is not the result of a seasonal fluctuation.

(3) The training or retraining course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the labor market area in this state in which the individual intends to seek work and there is not a substantial surplus of workers with requisite

skills in the occupation in that area.

(4) The training or retraining course of instruction is one approved by the director and can be completed within one year.

(5) The training or retraining course is a full-time course prescribed for the primary purpose of training the applicant in skills that will allow him or her to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of any degree from a college, community college, or university.

(6) The individual can be reasonably expected to complete the training or retraining successfully.

(7) The individual has not previously participated in training approved under this chapter.

SEC. 7. Section 1274.35 of the Unemployment Insurance Code is amended and renumbered to read:

1271. (a) Notwithstanding any other provision of this division, any unemployed individual who, as determined by the director, has been laid off from work as a result of a plant closure or a substantial reduction in employment at the individual's most recent workplace at the time the individual filed his or her parent claim, and who is receiving benefits payable under this part, Part 3 (commencing with Section 3501), or Part 4 (commencing with Section 4001) or under any other federal unemployment compensation law, who, by December 31, 1985, applies for a determination of potential eligibility for benefits under this article and is determined otherwise eligible for benefits under this article, is eligible for an additional maximum of 26 times his or her weekly benefit amount under the provisions of this article.

(b) Notwithstanding any other provision of this division, any unemployed individual receiving benefits payable under this part, Part 3 (commencing with Section 3501), or Part 4 (commencing with Section 4001), or any other federal unemployment compensation law, who, no later than the 16th week of his or her unemployment, applies for a determination of potential eligibility for benefits under this article and is determined eligible for benefits under this article, is eligible for a maximum of 52 times his or her weekly benefit amount under the provisions of this division. The department shall notify every individual who applies for unemployment compensation in this state of his or her opportunity to receive benefits under this article and to receive extended benefits under this article if application is made by the 16th week of unemployment.

(c) Any claimant receiving benefits pursuant to subdivision (a) or (b) who becomes eligible to file an unemployment compensation claim under state law or any other federal unemployment compensation law, shall file the claim in order to remain eligible under this article.

(d) Additional benefits paid under this section, and not otherwise payable under this division, shall be charged to individual employer reserve accounts, consistent with other provisions of this code.

(e) To the extent permitted by federal law, benefits payable under any federal unemployment compensation law shall be included as benefits payable under this section.

(f) This section shall remain in effect only until a total of twenty million dollars ($20,000,000) is expended from the Unemployment Fund pursuant to this section or until January 1, 1987, whichever date occurs first, and on that date is repealed, unless a later enacted statute chaptered before that date deletes or extends that date.

SEC. 8. Section 1274.4 of the Unemployment Insurance Code is amended and renumbered to read:

1270. As used in this article:

(a) "Demand occupation" means an occupation in a labor market area in which the director determines work opportunities are available and there is not a surplus of qualified applicants.

(b) "Labor market area" means a county, or aggregation of counties designated by the department that meets criteria of population, population density, commute patterns, and social and economic integration specified by the department.

(c) "Performance-based" means training under a contract in which payment is made only for achievement of job placement goals. "Performance-based" also means training in a program which has demonstrated its effectiveness by achievement of job placement goals, as determined by the director. The minimum job placement goal for performance-based training under this article shall be employment in training-related jobs for at least 90 days each for 75 percent of the individuals who enter training.

SEC. 9. Section 1274.6 of the Unemployment Insurance Code is amended and renumbered to read:

1272. Notwithstanding subdivision (c) of Section 1253, an unemployed individual who is able to work is eligible to receive benefits under this article with respect to any week during a period of training or retraining only if the director finds both of the following:

(a) He or she has been determined potentially eligible under Section 1269 or 1271.

(b) He or she submits with each claim a written certification executed by a responsible person connected with the training or retraining program certifying that he or she is enrolled in and satisfactorily pursuing the training or retraining course of instruction.

SEC. 10. Section 1274.7 of the Unemployment Insurance Code is amended and renumbered to read:

1272.5. If an individual fails to submit for any week during a period of training or retraining the certification required by Section 1272, he or she shall be ineligible to receive any benefits for that week. This section shall not render an individual ineligible for benefits for any week during the period of training or retraining if on or before Monday of that week he or she notifies the department that his or her training or retraining course of instruction has been

or is being discontinued or terminated prior to that week.

SEC. 11. Section 1274.8 of the Unemployment Insurance Code is amended and renumbered to read:

1273. Notwithstanding any other provision of this article, no payment of benefits during a period of training or retraining as described in this article shall be made to any individual for any week or part of any week with respect to which he or she receives training or retraining benefits, allowances, or stipends pursuant to the provisions of any state or federal law providing for the payment of such benefits, but excluding costs of training paid pursuant to the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.).

"Training or retraining benefits, allowances, or stipends," as used in this section, means discretionary use, cash in-hand payments available to the individual to be used as he or she sees fit. Direct and indirect compensation for training costs, such as tuition, books, and supplies, is excluded as a condition of approval.

SEC. 12. Section 1274 is added to the Unemployment Insurance Code, to read:

1274. This article is intended to be a reauthorization of Articles 1.5 (commencing with Section 1266) and 1.8 (commencing with Section 1274) of Chapter 5 of Part 1 of Division 1. No individual determined eligible under those articles shall be denied benefits by the application of different provisions of this article.

SEC. 13. Section 1274.10 of the Unemployment Insurance Code is amended to read:

1274.10. This article shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends the date.

SEC. 14. Section 9614 of the Unemployment Insurance Code is amended to read:

9614. Notwithstanding any other provision of law, the department shall annually issue the following reports:

(a) An evaluation of the Work Incentive Program, the Employment Preparation Program, the Supported Work program, the California Welfare Skills Training Act, and the California Job Tax Credit program. This report shall be issued by February 1 of each year.

(b) An evaluation of the Job Agent program and the Service Center program. This report shall be issued by December 1 of each year.

(c) An evaluation of the Retraining Benefits program, the Regional Employment Assessment, Job Search Assistance, and Placement Services for Displaced Workers Act, and the Displaced Worker Education and Training Act program. This report shall be issued by November 1 of each year.

SEC. 15. Section 10211 of the Unemployment Insurance Code is amended to read:

10211. A trainee or employee participating in a training program

pursuant to this chapter shall be considered to be in a training program having the approval of the director under Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1 of Division 1.

SEC. 16. It is the intent of the Legislature, if this bill and AB 2465 are both chaptered and become effective on or before January 1, 1985, both bills amend and renumber Section 1274.3 of the Unemployment Insurance Code, that the amendments to Section 1274.3 proposed by both bills be given effect and incorporated in Section 1269 in the form set forth in Section 2 of AB 2465. Therefore, Section 2 of AB 2465 shall become operative only if this bill and AB 2465 are both chaptered and become effective January 1, 1985, and both amend and renumber Section 1274.3, in which case Section 6 of this act shall not become operative.

SEC. 17. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1212

An act to amend Sections 10545, 10546, 10547, and 19683 of, and to add Sections 995.3, 10548, 10549, and 19683.5 to, the Government Code, relating to improper governmental activities.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 995.3 is added to the Government Code, to read:

995.3. (a) If a state employee provides his or her own defense against an action brought for an alleged violation of Section 10543 or 19683, and if it is established that no violation of Section 10543 or 19683 occurred, the public entity shall reimburse the employee for any costs incurred in the defense.

(b) A public entity which does provide for the defense of a state employee charged with a violation of Section 10543 or 19683 shall reserve all rights to be reimbursed for any costs incurred in that defense. If a state employee is found to have violated Section 10543 or 19683, he or she is liable for all defense costs and shall reimburse the public entity for those costs.

SEC. 2. Section 10545 of the Government Code is amended to

read:

10545. The committee, upon receiving specific information that any employee or state agency has engaged in an improper governmental activity, may require the Auditor General to conduct an investigative audit of the matter as the committee deems appropriate. Except in the case of a criminal investigation by a law enforcement agency, the identity of the person providing the information which initiated the investigative audit shall not be disclosed without the written permission of the person providing the information.

In addition, the committee may, on its own initiative, investigate incidences of improper governmental activities.

SEC. 3. Section 10546 of the Government Code is amended to read:

10546. The committee may request the assistance of any state department or agency in conducting any investigative audit required by this article. No information obtained by any department or agency as a result of the request shall be divulged or made known to any person without the prior approval of the committee.

SEC. 4. Section 10547 of the Government Code is amended to read:

10547. (a) If the committee determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper governmental activity, it shall report the nature and details of the activity to the head of the employing agency, or the appropriate appointing authority, and, if appropriate, to the Attorney General, the policy committees of the Senate and Assembly having jurisdiction over the subject involved, and to such other authority as the committee determines appropriate.

(b) The committee shall have no enforcement power. In any case in which the committee submits a report of alleged improper activity to the head of the employing agency, that individual shall report to the committee with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than 30 days after the date of the committee's report and monthly thereafter until final action has been taken. Every investigative audit shall be kept confidential, except that the committee may issue any report given to the head of the employing agency or the appropriate appointing authority pursuant to subdivision (a) that it deems necessary to serve the interests of the state.

(c) This section shall not limit any authority conferred upon the Attorney General or any other department or agency of government to investigate any matter.

SEC. 5. Section 10548 is added to the Government Code, to read:

10548. (a) Notwithstanding Section 19572, a state employee who files a report of alleged improper governmental activity pursuant to Section 10541 and who files a written complaint with his or her supervisor or appointing authority alleging actual or attempted acts of intimidation, threats, coercion, or similar acts prohibited by

Section 10543 or 19683, shall also file a copy of the written complaint with the State Personnel Board.

(b) The State Personnel Board shall initiate an investigation of the written complaint within 10 working days of its submission, shall complete a report on the findings within 60 working days thereafter, and shall provide a copy of the report and, if requested, all working papers pertaining thereto, within 80 calendar days, to the complaining state employee and to the employee's supervisor or appointing authority.

(c) If the findings of the State Personnel Board report involve acts by the employee's supervisor or appointing authority, and the supervisor or the appointing authority, or both, request a hearing with the State Personnel Board on those findings, a hearing shall be scheduled within 20 calendar days after a request therefor.

(d) If, after the hearing, the State Personnel Board determines that a violation of Section 10543 or 19683 occurred, or if no hearing is requested and the findings in the State Personnel Board report establish a reasonable basis for the allegations, the State Personnel Board shall order any appropriate relief, including, but not limited to, reinstatement, backpay, restoration of lost service credit, if appropriate, and the expungement of the records of the employee who disclosed information. In addition, the State Personnel Board shall order reimbursement to the complaining employee out of moneys appropriated to the agency for any costs incurred in the proceeding.

(e) Whenever the State Personnel Board, in accordance with Section 19583.5, determines that an appointing authority or a supervisor has violated Section 10543 or 19683, it shall cause an entry to that effect to be made in the supervisor's or appointing authority's personnel records.

SEC. 6. Section 10549 is added to the Government Code, to read:

10549. (a) Notwithstanding Section 19572, if the State Personnel Board determines that there is a reasonable basis for an alleged violation of Section 10543 or 19683, or finds an actual violation thereof, it shall transmit a copy of the investigative report to the Joint Legislative Audit Committee. All working papers pertaining to the investigative report shall be made available under subpoena in a civil action brought under Section 19683.

SEC. 7. Section 19683 of the Government Code is amended to read:

19683. No state officer or employee nor any person whatsoever shall directly or indirectly use or threaten to use any official authority or influence in any manner whatsoever which tends to discourage, restrain, interfere with, coerce or discriminate against any other state officer or employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General, or the Joint Legislative Audit Committee pursuant to Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2, or any other appropriate authority any facts or

information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto. Any person guilty of such an act may be liable in an action for civil damages brought against him by the offended party. Notwithstanding the provisions of Section 19682, a violation of this section shall not be a misdemeanor. Adverse action may be taken against any state officer or employee found guilty of violating this section.

SEC. 8. Section 19683.5 is added to the Government Code, to read:

19683.5. If a state employee is successful in an action brought pursuant to Section 19683, the complaining employee shall be reimbursed for all costs incurred pursuant to Section 995.3.

CHAPTER 1213

An act to add Section 21168.9 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 21168.9 is added to the Public Resources Code, to read:

21168.9. (a) If a court finds, as a result of a trial, hearing, or remand from an appellate court, that any determination, finding, or decision of a public agency has been made without compliance with this division, the court shall enter an order that includes one or more of the following:

(1) A mandate that the determination, finding, or decision be voided by the public agency.

(2) A mandate that the public agency and any real parties in interest suspend all activity, pursuant to the determination, finding, or decision, that could result in any change or alteration to the physical environment, until the public agency has taken such actions as may be necessary to bring the determination, finding, or decision into compliance with this division.

(3) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with this division.

(b) Any order pursuant to subdivision (a) shall be made by the issuance of a peremptory writ of mandate specifying what action by the public agency is necessary to comply with this division. The trial court shall retain jurisdiction over the public agency's proceedings by way of a return to the peremptory writ until the court has determined that the public agency has complied with this division.

(c) Nothing in this section authorizes a court to direct any public agency to exercise its discretion in any particular way.

(d) This section applies to any matter pending before any court on or after January 1, 1985, in which that court has not, on or before that date, entered its order determining whether the public agency has acted in accordance with this division.

CHAPTER 1214

An act to add and repeal Sections 22816.6 and 22954 of the Government Code, relating to state employees' health and dental benefits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 22816.6 is added to the Government Code, to read:

22816.6. Any permanent intermittent employee enrolled in a health benefits plan under this part who would lose health benefits coverage due to a reduction in working hours shall be entitled to have the employee's coverage and the coverage of any family members continued for up to one year upon assuming payment of the contributions otherwise required of the employer on account of the enrollment.

This section shall become inoperative on July 1, 1985, and, as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 22954 is added to the Government Code, to read:

22954. Any permanent intermittent employee enrolled in a dental care plan under this part who would lose dental care benefits coverage due to a reduction in working hours shall be entitled to have the employee's coverage and the coverage of any family members continued for up to one year upon assuming payment of the contributions otherwise required of the employer on account of the enrollment.

This section shall become inoperative on July 1, 1985, and, as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to insure the continued health and dental benefits for permanent intermittent employees who will otherwise lose their benefits coverage due to a reduction in working hours, it is necessary that this act take effect immediately.

CHAPTER 1215

An act to amend Sections 12000, 12002, and 12157 of, and to add Sections 12008 and 12159.5 to, the Fish and Game Code, to amend Section 597 of the Penal Code, and to amend Section 259 of the Welfare and Institutions Code, relating to fish and game.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 12000 of the Fish and Game Code is amended to read:

12000. Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

SEC. 2. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code which is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

(b) The punishment for violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

(1) Section 1059.

(2) Subdivision (d) of Section 4004.

(3) Sections 4600 to 4606, inclusive.

(4) Subdivision (a) or (b) of Section 5650.

(5) A first violation of Section 8670.

(6) Section 10500.

(7) Section 3005.9.

(8) A violation of commission regulations which is discovered pursuant to Section 3005.91 or 3005.92.

SEC. 3. Section 12008 is added to the Fish and Game Code, to read:

12008. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

(a) Chapter 1.5 (commencing with Section 2050) of Division 3.

(b) Section 3511.

(c) Chapter 8 (commencing with Section 4700) of Part 3 of Division 4.

(d) Chapter 2 (commencing with Section 5050) of Division 5.

(e) Section 5515.

SEC. 4. Section 12157 of the Fish and Game Code is amended to read:

12157. (a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, in his or her discretion, upon the conviction of the person tried, order the forfeiture of any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the offense charged.

(b) The judge shall, if the offense is punishable under Section 12008 of this code or subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any such device or apparatus which is used in committing the offense.

(c) Any device or apparatus ordered forfeited shall be sold or destroyed by the department.

(d) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund. A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.

(e) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus are applicable to the judge, referee, or traffic hearing officer in a juvenile court action brought under Section 259 of the Welfare and Institutions Code.

(f) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(g) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 8630.

SEC. 5. Section 12159.5 is added to the Fish and Game Code, to read:

12159.5. The judge before whom any person is tried for a violation of a provision of this code that prohibits the taking of any endangered animal, rare animal, or fully protected bird, mammal, reptile, amphibian, or fish, as specified by Section 12008, may, in the court's discretion and upon the conviction of that person, order the forfeiture of any proceeds resulting from the taking of the endangered animal, rare animal, or fully protected bird, mammal, reptile, amphibian, or fish.

SEC. 6. Section 12159.5 is added to the Fish and Game Code, to read:

12159.5. The judge before whom any person is tried for a

violation of a provision of this code that prohibits the taking of any endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish, as specified by Section 12008, may, in the court's discretion and upon the conviction of that person, order the forfeiture of any proceeds resulting from the taking of the endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish.

SEC. 7. Section 597 of the Penal Code is amended to read:

597. (a) Except as provided in subdivision (c), every person who maliciously maims, wounds, tortures, or mutilates a living animal which is the property of another, or maliciously kills an animal which is the property of another, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, by a fine of not more than two thousand dollars ($2,000), or by both the fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a misdemeanor.

(c) Every person, who maliciously and intentionally maims, tortures, or mutilates any mammal, bird, reptile, amphibian, or fish as described in subdivision (d), is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, by a fine of not more than two thousand dollars ($2,000), or by both the fine and imprisonment if any of the following facts are proven:

(1) The person knows that the mammal, bird, reptile, amphibian, or fish is a creature described in subdivision (d).

(2) The person has been convicted of a violation of Section 12008 of the Fish and Game Code, which conviction occurred within five years of the conviction of this violation.

(3) The person has been convicted of a violation of this subdivision, which conviction occurred within five years of the conviction of this offense.

(4) The person maliciously and intentionally maims, tortures, or

mutilates three or more separate specimens of the creatures described in subdivision (d) whether from the same or separate or any combination of the groups of creatures described therein.

(d) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered animals or rare animals as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(e) For the purposes of subdivision (c) each act of maliciously and intentionally maiming, torturing, or mutilating a separate specimen of a creature described in subdivision (d) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

SEC. 8. Section 597 of the Penal Code is amended to read:

597. (a) Except as provided in subdivision (c), every person who maliciously maims, wounds, tortures, or mutilates a living animal which is the property of another, or maliciously kills an animal which is the property of another, is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in a county jail for not more than one year, by a fine of not more than two thousand dollars ($2,000), or by both the fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when

unfit for labor, is, for every such offense, guilty of a misdemeanor.

(c) Every person, who maliciously and intentionally maims, tortures, or mutilates any mammal, bird, reptile, amphibian, or fish as described in subdivision (d), is guilty of an offense punishable by imprisonment in the state prison, or by a fine of not more than twenty thousand dollars ($20,000), or by both the fine and imprisonment, or, alternatively, by imprisonment in the county jail for not more than one year, by a fine of not more than two thousand dollars ($2,000), or by both the fine and imprisonment if any of the following facts are proven:

(1) The person knows that the mammal, bird, reptile, amphibian, or fish is a creature described in subdivision (d).

(2) The person has been convicted of a violation of Section 12008 of the Fish and Game Code, which conviction occurred within five years of the conviction of this violation.

(3) The person has been convicted of a violation of this subdivision, which conviction occurred within five years of the conviction of this offense.

(4) The person maliciously and intentionally maims, tortures, or mutilates three or more separate specimens of the creatures described in subdivision (d) whether from the same or separate or any combination of the groups of creatures described therein.

(d) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species, as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(e) For the purposes of subdivision (c) each act of maliciously and intentionally maiming, torturing, or mutilating a separate specimen of a creature described in subdivision (d) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

SEC. 9. Section 259 of the Welfare and Institutions Code is amended to read:

259. Upon a hearing conducted in accordance with Section 257, upon admission by the minor of the commission of a violation of the

Fish and Game Code charged, or upon a finding that the minor did in fact commit the violation of the Fish and Game Code, the judge, referee, or traffic hearing officer may do any of the following:

(a) Reprimand the minor and take no further action.

(b) Direct the probation officer to file a petition as provided for in Article 16 (commencing with Section 650).

(c) Make any or all of the following orders:

(1) That the fishing or hunting license involved be suspended or restricted.

(2) That the minor pay to the general fund of the county a sum, not to exceed twenty-five dollars ($25).

(3) That the minor work in a park or conservation area for a total of not to exceed eight hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment.

(4) That the minor forfeit, pursuant to Section 12157 of the Fish and Game Code, any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the violation charged. The judge, referee, or traffic hearing officer shall, if the minor committed an offense which is punishable under Section 12008 of the Fish and Game Code, order the device or apparatus forfeited pursuant to Section 12157 of the Fish and Game Code.

The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

SEC. 10. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 11. It is the intent of the Legislature that if this bill and SB 1589 are both chaptered and become operative on January 1, 1985, that the amendments to Section 12000 of the Fish and Game Code proposed by SB 1589 shall prevail over the amendments to that section proposed in Section 1 of this bill. Therefore, Section 1 of this bill shall become operative on January 1, 1985, unless SB 1589 is chaptered, becomes operative on January 1, 1985, and amends Section 12000 of the Fish and Game Code, in which case Section 1 of this bill shall not become operative, whether this bill is chaptered before or after SB 1589.

SEC. 12. It is the intent of the Legislature that if this bill and both AB 3270 and AB 3309 are chaptered and become operative on January 1, 1985, that the designation of endangered species and threatened species proposed in AB 3270 and AB 3309 be incorporated in this bill. Therefore, Sections 6 and 8 of this bill shall become

operative on January 1, 1985, if AB 3270 and AB 3309 are both chaptered and become operative on January 1, 1985, whether chaptered before or after this bill, in which case Sections 5 and 7 of this bill shall not become operative.

CHAPTER 1216

An act to amend Section 11555.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11555.2 of the Insurance Code is amended to read:

11555.2. Each insurer transacting insurance covering liability for malpractice of any person licensed under the Dental Practice Act (Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code), under the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code), or under the State Bar Act (Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code), shall report all of the following statistics to the commissioner, by profession and by medical specialty, on a date to be set by the commissioner, but not later than July 1 of each calendar year:

(a) The total number of doctors or lawyers written during the immediately preceding calendar year.

(b) The total amount of premiums received from insureds, both written and earned (as reported in the annual statement), during the immediately preceding calendar year.

(c) The number of claims reported to the insurer for the first time separately by the year the claim occurred, and the number of claims reported closed during a previous calendar year which were reopened separately by the year the claim occurred.

(d) The total number of claims outstanding, together with the monetary amount reserved for loss and allocated loss expense, in the annual statement as of December 31 of the calendar year next preceding, separately stated by the year the claim occurred.

(e) (1) The number of claims closed with payment to the claimant during the calendar year next preceding, to be reported by the year the claim occurred, (2) the total monetary amount paid thereon, reported by the year the claim occurred, and (3) the total allocated loss expense paid thereon, reported by the year the claim occurred.

(f) The monetary amount paid on claims during the calendar year

next preceding, to be reported separately by the year the claim occurred, with allocated loss expense paid, to be reported separately by the year the claim occurred.

(g) The number of claims closed without payment to the claimant during the calendar year next preceding, by the year the claim occurred, and the allocated loss expense paid thereon, separately by the year the claim occurred.

(h) The monetary amount reserved in the annual statement for the calendar year next preceding on claims incurred but not reported to the insurer.

(i) The number of lawsuits filed against the insurer's insureds, and the number of doctors, included therein, during the calendar year next preceding, to be separately reported by the year the claim occurred.

(j) A distribution by size of payment for those claims closed during the calendar year next preceding, showing the number of claims and total amount paid for each monetary category, as determined by the commissioner.

CHAPTER 1217

An act to add Section 99.3 to the Revenue and Taxation Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 99.3 is added to the Revenue and Taxation Code, to read:

99.3. Notwithstanding any other provision of this chapter, in the case of a jurisdictional change which transfers the responsibility for fire protection from a city to a fire protection district in the County of Marin, the auditor shall adjust the allocation of property tax revenue as follows:

(a) The auditor shall determine a factor which is the proportion that the amount of property tax revenue derived by the fire district in the previous fiscal year bears to the total amount of property tax revenue derived from the tax rate areas within the fire protection district during that fiscal year.

(b) The auditor shall then multiply the factor determined in subdivision (a) by the entire annual tax increment, computed pursuant to Section 98, from the tax rate areas within the city.

(c) The auditor shall increase the allocation to the fire protection district by the amount determined in subdivision (b). The auditor shall reduce by the same amount the allocation to all other local

agencies which receive property tax revenues from the tax rate areas within the city. The auditor shall reduce the allocation to those local agencies in proportion to the amount that each local agency would have received.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City of Belvedere and the Tiburon Fire Protection District.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to finance an adequate level of structural fire protection for the residents and landowners of the communities of Belvedere and Tiburon as soon as possible, it is necessary that this act, which requires the transfer of property tax revenues to a fire protection district serving those communities, go into immediate effect.

CHAPTER 1218

An act to amend Sections 1062, 3706, and 5225 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1062 of the Public Utilities Code is amended to read:

1062. The commission may do all of the following:

(a) Supervise and regulate every highway common carrier and cement carrier in this state.

(b) Fix the rates, fares, charges, classifications, and rules of each of these carriers.

(c) Regulate the accounts, and service of each of these carriers, and require the filing of annual and other reports and of other data by these carriers.

(d) Supervise and regulate these carriers in all other matters affecting the relationship between them and the shipping public.

(e) Directly or through its employees, representatives, or

inspectors photocopy or electrostatically or photostatically reproduce at the commission's expense the accounts, books, papers, and documents of any of these carriers at either the premises of the carrier or the offices of the commission. A carrier may determine whether the copying or reproduction is done at its premises or at the offices of the commission, and where copying or reproduction expenses are incurred by the carrier, the commission shall, upon request, reimburse the carrier for the expenses.

The commission, by general order or otherwise, may prescribe rules applicable to any and all highway common carriers and cement carriers. The commission, in the exercise of the jurisdiction conferred upon it by the California Constitution and by this part, may make orders and prescribe rules affecting highway common carriers and cement carriers, notwithstanding the provisions of any ordinance or permit of any city, city and county, or county, and in case of conflict between its order or rule and any ordinance or permit of a city, city and county, or county, the order or rule of the commission shall prevail.

SEC. 2. Section 3706 of the Public Utilities Code is amended to read:

3706. The employees, representatives, and inspectors of the commission may, under its order or direction, inspect and examine any lands, buildings, equipment, accounts, books, records, and memoranda, including all documents, papers, and correspondence kept or required to be kept by highway permit carriers, and may photocopy or electrostatically or photostatically reproduce at the commission's expense any of these accounts, books, records, memoranda, documents, papers, and correspondence at either the premises of the carrier or the offices of the commission. A carrier may determine whether the copying or reproduction is done at its premises or at the offices of the commission, and where copying or reproduction expenses are incurred by the carrier, the commission shall, upon request, reimburse the carrier for the expenses.

SEC. 3. Section 5225 of the Public Utilities Code is amended to read:

5225. The commission, its authorized employees, representatives, and inspectors shall at all times have access to all lands, buildings, and equipment of household goods carriers used in connection with the operation of their business as such carriers in this state, and also all accounts, records, and memoranda, including all documents, books, papers, and correspondence kept or required to be kept by household goods carriers, and may photocopy or electrostatically or photostatically reproduce at the commission's expense any of these accounts, records, memoranda, documents, books, papers, and correspondence at either the premises of the carrier or the offices of the commission. A carrier may determine whether the copying or reproduction is done at its premises or at the offices of the commission, and where copying or reproduction expenses are incurred by the carrier, the commission shall, upon

request, reimburse the carrier for the expenses.

CHAPTER 1219

An act to add Section 13009.6 to the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 17, 1984 Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 13009.6 is added to the Health and Safety Code, to read:

13009.6. (a) (1) Those expenses of an emergency response necessary to protect the public from a real and imminent threat to health and safety by a public agency to confine, prevent, or mitigate the release, escape, or burning of hazardous substances described in subdivision (c) are a charge against any person whose negligence causes the incident, if either of the following occurs:

(A) Evacuation beyond the property where the incident originates is necessary to prevent loss of life or injury.

(B) The incident results in the spread of hazardous substances or fire posing a real and imminent threat to public health and safety beyond the property of origin.

(2) Expenses reimbursable to a public agency under this section are a debt of the person liable therefor, and shall be collectible in the same manner as in the case of an obligation under contract, express or implied.

(3) The charge created against the person by this subdivision is also a charge against the person's employer if the negligence causing the incident occurs in the course of the person's employment.

(b) There shall be deducted from any amount otherwise recoverable under this section, the amount of any reimbursement for eligible costs received by a public agency pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20. The amount so reimbursed may be recovered as provided in Section 25360.

(c) As used in this section, "hazardous substance" means any hazardous substance listed in Section 25316 of this code or in Section 6382 of the Labor Code.

SEC. 2. It is not the intent of the Legislature in enacting Section 1 of this act to preempt local regulations or to limit the remedies available to public agencies in regard to the recovery of expenses incurred in making an emergency response to prevent, mitigate, confine, or prevent the release, escape, or burning of hazardous substances.

CHAPTER 1220

An act to amend Section 4144 of the Public Resources Code, relating to fire prevention and control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 4144 of the Public Resources Code is amended to read:

4144. (a) Notwithstanding Section 4142, the director may, with the approval of the Department of General Services, enter into a cooperative agreement with a county for the purpose of preventing and suppressing forest fires or other fires within any county that so requests under those terms and conditions which the director deems wise.

(b) The director shall not enter into or renew a cooperative agreement pursuant to this section under any of the following circumstances:

(1) With any county which has assumed responsibility pursuant to Section 4129.

(2) With any county which does not have lands classified by the board pursuant to Section 4125 as a state responsibility area.

(3) If the director determines that one effect of the agreement would be the replacement or curtailment of locally provided fire prevention and suppression services.

(4) If the director determines, pursuant to the policy and standards adopted by the board under Section 4143, that the agreement would replicate services provided under an agreement made pursuant to Section 4142.

(5) When the director determines that the number and value of building permits, population density, available financial resources, or any other factor within the service area of a particular station under the agreement make it feasible for the communities to permanently or continuously support their own fire prevention and suppression services.

(c) The director shall not enter into or renew a cooperative agreement pursuant to this section where equipment, personnel, or buildings are requested for protection of a community in addition to the equipment, personnel, and buildings used during the fire season to protect state responsibility areas.

(d) The cooperative agreement shall provide both of the following:

(1) In a reasonable manner, for the efficient utilization of necessary fire prevention and suppression related equipment, personnel, and buildings under the jurisdiction of the director and

located in or immediately adjacent to the state responsibility area during that period of the year commonly designated as the "nonfire season." The equipment and buildings utilized shall be limited to those owned or leased by the state, or their replacements, and to the equipment, personnel, and buildings used during the fire season to protect state responsibility areas. Whenever the cooperative agreement provides for the employment of personnel during the "nonfire season" who would be in addition to the personnel required for the necessary operation and maintenance, during the "nonfire season," of equipment and buildings under the jurisdiction of the director, the full salaries and all benefits of the additional personnel shall be apportioned as costs to the county.

(2) A cost apportionment between the county and the state that reasonably reflects cost apportionments made pursuant to Section 4142, except that the county shall be apportioned a percentage of the base salary cost, not to exceed 15 percent, for state personnel assigned to staff fire engines at a rate determined annually by the director, plus staff benefit costs attributable to the apportionment, and total overtime pay. Consistent with regulations adopted by the board, the costs to the department resulting from the inability of its employees to reduce compensating-time-off balances incurred during the fire season shall be apportioned as costs to the county.

(e) This section is necessary because sparsely populated rural communities lack the tax base sufficient to provide the necessary financial resources for year-round fire prevention and suppression, and it is the intent of the Legislature that, pursuant to this section, fire prevention and suppression may be provided during the "nonfire season" to those communities until those communities have adequate revenues to permanently or continuously support their own fire prevention and suppression.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Department of Forestry may be unable to continue making its personnel, equipment, and facilities available to counties following the close of the 1984 wildland fire season unless the traditional cost apportionment is restored before the winter; therefore, in order that this change may be made at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1221

An act to amend Sections 25138, 25139, 25354, 25364, and 25368 of the Public Resources Code, relating to petroleum products.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 25138 of the Public Resources Code is amended to read:

25138. "Major oil transporter" means any person who transports oil or other petroleum products in amounts determined by the commission as having a major effect on energy supplies.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1990, deletes or extends that date.

SEC. 2. Section 25139 of the Public Resources Code is amended to read:

25139. "Major oil storer" means any person who stores oil or other petroleum products in amounts of not less than 20,000 barrels per month. "Major oil storer" does not include any oil producer who produces less than 30,000 barrels per month.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1990, deletes or extends that date.

SEC. 3. Section 25354 of the Public Resources Code is amended to read:

25354. (a) Beginning the first month after the effective date of this chapter and each month thereafter, each refiner and major marketer shall submit information to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each monthly reporting period and shall include the following:

(1) Refiners shall report, for each of their refineries, feedstock inputs, origin of petroleum receipts, refinery outputs, refinery stocks, and finished product supply and distribution.

(2) Major marketers shall report on petroleum and petroleum product receipts, inventories, and distributions.

(b) Beginning the first month after the effective date of this chapter and annually thereafter, each major oil producer, refiner, marketer, oil transporter, and oil storer shall submit information to the commission in such form and extent as the commission prescribes pursuant to this section. The information shall be submitted within 30 days after the end of each reporting period, and shall include the following:

(1) Major oil transporters shall report on petroleum by reporting the capacities of each major transportation system, the amount transported by each system, and inventories thereof. The commission may prescribe rules and regulations which exclude pipeline and transportation modes operated entirely on property owned by major oil transporters from the reporting requirements of this section where the data or information is not needed to fulfill the

purposes of this chapter. The provision of the information shall not be construed to increase or decrease any authority the Public Utilities Commission may otherwise have.

(2) Major oil storers shall report on storage capacity, inventories, receipts and distributions, and methods of transportation of receipts and distributions.

(3) Major oil producers shall, with respect to thermally enhanced oil recovery operations, report annually by designated oil field, the monthly use, as fuel, of crude oil and natural gas.

(4) Refiners shall report on facility capacity, and utilization and method of transportation of refinery receipts and distributions.

(5) Major oil marketers shall report on facility capacity and methods of transportation of receipts and distributions.

(c) Each person required to report pursuant to subdivision (a) shall submit a projection each month of the information to be submitted pursuant to subdivision (a) for the quarter following the month in which the information is submitted to the commission.

(d) In addition to the data required under subdivision (a), each integrated oil refiner (produces, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the commission an annual industry forecast for Petroleum Administration for Defense, District V (covering Arizona, Nevada, Washington, Oregon, California, Alaska, and Hawaii). The forecast shall include the information to be submitted under subdivision (a), and shall be submitted by March 15 of each year. The commission may require California-specific forecasts. However, those forecasts shall be required only if the commission finds them necessary to carry out its responsibilities.

(e) The commission may by order or regulation modify the reporting period as to any individual item of information setting forth in the order or regulation its reason for so doing.

(f) The commission may request additional information as necessary to perform its responsibilities under this chapter.

(g) Any person required to submit information or data under this chapter may, in lieu thereof, submit a report made to any other governmental agency, provided, that:

(1) The alternate report or reports contain all of the information or data required by specific request under this chapter.

(2) The person clearly identifies the specific request to which the alternate report is responsive.

(h) Beginning January 1, 1985, and each month thereafter, each refiner shall submit to the commission, within 30 days after the end of each monthly reporting period, all of the following information in such form and extent as the commission prescribes:

(1) Monthly California weighted average prices and sales volumes of finished leaded regular, unleaded regular, and premium motor gasoline sold through company-operated retail outlets, to other end-users, and to wholesale customers.

(2) Monthly California weighted average prices and sales volumes

for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil.

(3) Monthly California weighted average prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur and consumer grade propane.

(i) Refiners that submit form EIA-800 reports to the United States Department of Energy shall provide to the commission copies of their weekly reports, or equivalent data, for the period from January 1, 1983, to January 1, 1985, and thereafter provide to the commission copies of weekly EIA-800 reports, or equivalent data, once each month through December 31, 1985.

SEC. 4. Section 25364 of the Public Resources Code is amended to read:

25364. (a) Any person required to present information or data to the commission pursuant to Sections 25354 and 25360 may request that specific information or data be held in confidence.

(b) Information presented to the commission pursuant to this chapter shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c) Whenever the commission receives a request to publicly disclose unaggregated information or data, or otherwise proposes to publicly disclose information or data submitted pursuant to this chapter, notice of the request or proposal shall be provided to the person submitting the information. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of data or information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

The commission shall consider the respondent's submittal in determining whether to publicly disclose the information or data submitted to it to which a claim of confidentiality is made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information or data for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information or data submitted to it pursuant to this chapter within 10 working days after the commission has issued its written decision required in this section.

(e) No data or information submitted to the commission shall be deemed confidential if the person submitting the information or data

has made it public.

(f) With respect to data provided pursuant to subdivision (h) of Section 25354, neither the commission, nor any employee of the commission, may do any of the following:

(1) Use the information furnished under subdivision (h) for any purpose other than the statistical purposes for which it is supplied.

(2) Make any publication whereby the data furnished by any particular establishment or individual under subdivision (h) can be identified.

(3) Permit anyone other than commission members and employees of the commission to examine the individual reports provided under subdivision (h).

SEC. 5. Section 25368 of the Public Resources Code is amended to read:

25368. This chapter shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 1990, deletes or extends that date.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1222

An act to amend the heading of Title 7.42 (commencing with Section 66905) of, to amend Sections 831.5, 66905.2, 66905.6, 66905.7, and 66906.7 of, to amend and renumber Sections 66905.8, 66905.9, 66906.2, 66906.3, and 66906.4 of, to add Sections 66905.8, 66905.9, 66905.10, 66906.8, and 66906.9 to, to add Chapter 6 (commencing with Section 66908) to Title 7.42 of, to add and repeal Chapter 7 (commencing with Section 66909) of Title 7.42 of, to repeal and add Chapter 5 (commencing with Section 66907) to Title 7.42 of, to repeal Chapter 6 (commencing with Section 66907.5) of Title 7.42 of, and to repeal Sections 66906 and 66906.1 of, the Government Code, relating to the California Tahoe Conservancy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 831.5 of the Government Code is amended to read:

831.5. (a) The Legislature declares that innovative public access programs, such as agreements with public land trusts, can provide effective and responsible alternatives to costly public acquisition programs. The Legislature therefore declares that it is beneficial to the people of this state to encourage private nonprofit entities such as public land trusts to carry out programs that preserve open space or increase opportunities for the public to enjoy access to and use of natural resources if such programs are consistent (1) with public safety, (2) with the protection of such resources, and (3) with public and private rights.

(b) For the purposes of Sections 831.2, 831.4, and 831.7, "public entity" includes a public land trust which meets all of the following:

(1) Is a nonprofit organization existing under the provisions of Section 501(c) of the United States Internal Revenue Code.

(2) Has specifically set forth in its articles of incorporation, as among its principal charitable purposes, the conservation of land for public access, agricultural, scientific, historical, educational, recreational, scenic, or open space opportunities.

(3) Has entered into an agreement with the State Coastal Conservancy for lands located within the coastal zone, as defined in Section 31006 of the Public Resources Code, with the California Tahoe Conservancy or its designee for lands located within the Lake Tahoe region, as defined in subdivision (c) of Section 66953 of the Government Code, or with the State Public Works Board or its designee for lands not located within the coastal zone or the Lake Tahoe region, on such terms and conditions as are mutually agreeable, requiring the public land trust to hold the lands or, where appropriate, to provide nondiscriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both. The conservancy or the board, as appropriate, shall periodically review such agreement and determine whether the public land trust is in compliance with such terms and conditions. In the event the conservancy or the board determines that the public land trust is not in substantial compliance with such agreement, the conservancy or the board shall cancel the agreement, and the provisions of Sections 831.2, 831.4, and 831.7 shall no longer apply with regard to that public land trust.

(c) For the purposes of Sections 831.2, 831.4, and 831.7, "public employee" includes an officer, authorized agent, or employee of any public land trust which is a public entity.

SEC. 1.5. The heading of Title 7.42 (commencing with Section 66905) of the Government Code is amended to read:

TITLE 7.42. CALIFORNIA TAHOE CONSERVANCY

SEC. 2. Section 66905.2 of the Government Code is amended to read:

66905.2. It is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to preserve the scenic beauty and recreational opportunities of the region; and it is recognized that for the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established a governmental agency with power to acquire and hold property in the Tahoe region.

SEC. 3. Section 66905.6 of the Government Code is amended to read:

66905.6. "Conservancy" means the California Tahoe Conservancy.

SEC. 4. Section 66905.7 of the Government Code is amended to read:

66905.7. "Governing body" means the governing board of the California Tahoe Conservancy.

SEC. 5. Section 66905.8 of the Government Code is amended and renumbered to read:

66906. The California Tahoe Conservancy is a state agency within the Resources Agency. The conservancy is a successor agency to the California Tahoe Conservancy Agency.

SEC. 6. Section 66905.8 is added to the Government Code, to read:

66905.8. "Local public agency" means a city, county, district, or joint powers agency.

SEC. 7. Section 66905.9 of the Government Code is amended and renumbered to read:

66906.1. The governing body of the conservancy shall be comprised of seven voting members and one ex officio nonvoting member. The voting members shall be as follows:

(a) One member appointed by the City Council of the City of South Lake Tahoe.

(b) One member appointed by the Board of Supervisors of the County of Placer.

(c) One member appointed by the Board of Supervisors of the County of El Dorado.

(d) The Secretary of the Resources Agency or his or her designee.

(e) One member appointed from the general public by the Senate Committee on Rules.

(f) One member appointed from the general public by the Speaker of the Assembly.

(g) The Director of Finance or the director's designee.

The members appointed or designated pursuant to subdivisions (d) to (g), inclusive, shall not be residents of the region.

The members of the governing body of the conservancy shall serve at the pleasure of the respective appointing authority.

A representative of the United States Secretary of Agriculture shall be an ex officio, nonvoting member of the conservancy.

The members of the conservancy shall serve without

compensation, but shall be reimbursed the actual amounts of the reasonable and necessary expenses incurred in attending meetings of the conservancy and in carrying out the duties of their office.

SEC. 8. Section 66905.9 is added to the Government Code, to read:

66905.9. "Nonprofit organization" means any existing private, nonprofit organization which qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code of 1954, and has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities.

SEC. 8.5. Section 66905.10 is added to the Government Code, to read:

66905.10. "Fund" means the Tahoe Conservancy Fund.

SEC. 9. Section 66906 of the Government Code is repealed.

SEC. 10. Section 66906.1 of the Government Code is repealed.

SEC. 11. Section 66906.2 of the Government Code is amended and renumbered to read:

66906.3. The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be two years, and who shall be subject to reelections, except that a new chairman or vice chairman may be elected by the governing body before the expiration of the two-year term for the fulfillment of that two-year term.

SEC. 12. Section 66906.3 of the Government Code is amended and renumbered to read:

66906.4. A majority of the total membership of the governing body shall constitute a quorum for the transaction of the business of the conservancy. A majority vote of the members present at a meeting, but not less than a quorum, shall be binding on all matters, except a request to the State Public Works Board to exercise the power of eminent domain pursuant to Section 66907.5 which shall require five affirmative votes. The governing body shall adopt its own rules, regulations, and procedures.

The limitations on voting by designees of voting members in Section 7.5 shall not apply to this title.

SEC. 13. Section 66906.4 of the Government Code is amended and renumbered to read:

66906.5. The conservancy shall establish and maintain an office within the region. The conservancy may rent or own real and personal property and equipment, subject to applicable statutes and regulations.

SEC. 14. Section 66906.7 of the Government Code is amended to read:

66906.7. (a) The conservancy's expenses may be paid out of any conservancy funds including those acquired by gift or donation and from any money received from rents or leases of conservancy property. However, the expenditure of the conservancy for staff services shall not exceed 10 percent of the amount received from

these sources.

(b) An amount, not to exceed five hundred fifty thousand dollars ($550,000), may be appropriated in the 1984–85 fiscal year from funds available pursuant to Section 66956 to the conservancy, or to any other agency which may be designated pursuant to Section 66957, for expenditure for the administration of this title and Title 7.43 (commencing with Section 66950).

SEC. 15. Section 66906.8 is added to the Government Code, to read:

66906.8. The conservancy may select and hire private consultants or contractors pursuant to Section 1204 of the State Administrative Manual to provide services necessary to achieve the purposes of this title.

SEC. 15.5. Section 66906.9 is added to the Government Code, to read:

66906.9. The Tahoe Conservancy Fund is hereby created. Money in the fund shall be available for purposes of this title upon appropriation by the Legislature.

SEC. 16. Chapter 5 (commencing with Section 66907) of Title 7.42 of the Government Code is repealed.

SEC. 17. Chapter 5 (commencing with Section 66907) is added to Title 7.42 of the Government Code, to read:

CHAPTER 5. CONSERVANCY'S POWERS

66907. The conservancy may select and acquire real property or interests therein in the name of and on behalf of the state, for the purposes of protecting the natural environment, providing public access or public recreational facilities, preserving wildlife habitat areas, or providing access to or management of acquired lands. The conservancy is hereby designated as the principal agency responsible for acquiring real property pursuant to Title 7.43 (commencing with Section 66950).

66907.1. (a) The conservancy may acquire interests in land by means of land exchanges and is authorized to enter into all alternatives to the acquisition of fee interests in land including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback agreements. Land acquisition policy shall be set by the conservancy by resolution and the establishment of this policy by resolution is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(b) The conservancy may appoint advisory bodies on land acquisition as it deems advisable.

66907.2. The conservancy is authorized to accept and hold real property or any interest therein acquired through gift, exchange, donation, or dedication.

66907.3. The conservancy may designate or enter into an agreement with any public agency to provide real estate services and assign authority to execute agreements for the acquisition or disposal

of real property or interests therein.

66907.4. (a) Acquisition of real property or interests therein under this title, when the value is in excess of two hundred fifty thousand dollars ($250,000) per lot or parcel, is subject to provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2).

(b) Except as set forth in subdivision (a), acquisition of real property or interests under this title is not subject to the Property Acquisition Law. However, the conservancy may request Public Works Board review and approval of specific acquisitions.

66907.5. The conservancy may request the State Public Works Board to exercise the power of eminent domain pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2), if the requirements of Section 66906.4 are met and the conservancy finds that all reasonable efforts to acquire the property have failed and that the action is necessary to remove an impediment to an otherwise voluntary acquisition or is needed to achieve the purposes of other related acquisitions.

66907.6. Notwithstanding any other provisions of law, the conservancy may enter into an option to purchase lands in fee or lesser interest.

66907.7. (a) The conservancy may award grants to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this title.

(b) Grants to nonprofit organizations for the acquisition of real property or interests therein shall be subject to all of the following conditions:

(1) The purchase price of any interest in land acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the conservancy.

(2) The conservancy approves the terms under which the interest in land is acquired.

(3) The interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt to be incurred by the nonprofit organization unless the conservancy approves the transaction.

(4) The transfer of land acquired pursuant to a grant shall be subject to the approval of the conservancy and a new agreement sufficient to protect the interest of the people of California shall be entered into with the transferee.

(5) If any essential term or condition of the grant is violated, title to all interest in real property acquired with state funds shall immediately vest in the state.

(6) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state unless another appropriate public agency or nonprofit organization is identified by the conservancy and agrees to accept title to all interests in real property.

Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the reversionary interest of the state.

66907.8. Notwithstanding any other provisions of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest thereon, or option acquired under this title to local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, or corporate entities for management purposes pursuant to terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

66907.9. The conservancy is hereby empowered to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with natural or corporate persons, the state, the local governmental authorities of the region, or the federal government, and to enter into any other agreements authorized by state or federal law.

66907.10. The conservancy may improve and develop acquired lands for the purpose of protecting the natural environment or otherwise meeting the objectives of this title. The conservancy may not develop and may not enter into any contract or agreement which would result in the development of any land under its ownership or control, except in conformance with a basinwide management plan.

66907.11. The conservancy may merge or split acquired lots, adjust boundary lines, or take similar actions needed to facilitate the acquisition and management of lands.

SEC. 18. Chapter 6 (commencing with Section 66907.5) of Title 7.42 of the Government Code is repealed.

SEC. 19. Chapter 6 (commencing with Section 66908) is added to Title 7.42 of the Government Code, to read:

CHAPTER 6. FINANCES

66908. The conservancy may receive gifts, donations, subventions, grants, rents, royalties, and other financial aids and funds from private and public sources.

66908.1. The conservancy may fix and collect fees for any services rendered by it. The amount of any fee may not exceed the reasonable costs of providing the services rendered by the conservancy.

66908.2. Proceeds from any lease, rental, sale, exchange, transfer of land, interest therein, or option thereon, or income shall be deposited in the fund and shall be available for expenditure for the purposes of this title when appropriated by the Legislature.

66908.3. The conservancy is authorized to lease lands acquired in accordance with Section 66907.8. When the leases are made to private individuals or groups, the conservancy shall annually, upon appropriation of these amounts by the Legislature, transfer 25 percent of the gross income of the leases to the county in which the

lands are located. Fifty percent of the funds received by a county under this section shall be used for soil erosion control projects in the region.

SEC. 20. Chapter 7 (commencing with Section 66909) is added to Title 7.42 of the Government Code, to read:

CHAPTER 7. TORT IMMUNITIES

66909. The immunity conferred pursuant to Section 831.2 for unimproved public property applies to real property acquired under this title which is located within a partially improved subdivision and has no improvements other than streets, utility connections, utility poles, electric transmission lines, gutters, or similar infrastructure existing at the time of acquisition which serve the subdivision in whole or in part. This section does not limit liability which would otherwise exist for any injuries or damages proximately caused by any improvement.

66909.1. The provisions of this chapter are in addition to all other tort immunities conferred pursuant to other provisions of law.

66909.2. (a) The Legislature finds and declares that accomplishment of the goals and objectives of the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950)) depends upon prompt and efficient acquisition of property within the Lake Tahoe region.

(b) The Legislature further finds and declares that the conservancy is a unique entity, that some lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950)), though not wholly unimproved, are equivalent in character and uses to unimproved public lands coming within the purview of Section 831.2, and that, for the above reasons, the immunity provisions of Section 831.2 should be extended to provide an immunity from liability for injuries resulting from a natural condition of certain partially improved lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act.

(c) It is the intent of the Legislature that the extension of Section 831.2 pursuant to this chapter apply only to lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act and that this chapter does not affect the construction of Section 831.2, or justify a provision similar to this chapter, with respect to any other public property.

66909.3. Except as provided in Section 831.5, nothing in this chapter extends tort immunities provided public entities to any private individual or entity.

66909.4. Nothing in this chapter creates a duty of care or basis of liability for damage or injury to property or persons.

66909.5. This chapter shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate changes which will allow the immediate acquisition and purchase of lands pursuant to the Lake Tahoe Acquisitions Bond Act, it is necessary that this act take effect immediately.

CHAPTER 1223

An act to amend and renumber Sections 4366 and 4367 of, and to add Section 4080.2 to, the Business and Professions Code, relating to pharmacies.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 4080.2 is added to the Business and Professions Code, to read:

4080.2. (a) The board may void the license of a wholesaler or pharmacy if the licensed premises remains closed, as defined in subdivision (e), other than by order of the board. For good cause shown, the board may void a license after a shorter period of closure. To void a license pursuant to this subdivision, the board shall make a diligent, good-faith effort to give notice by personal service on the licensee. If no written objection is received within 10 days after personal service is made or a diligent, good-faith effort to give notice by personal service on the licensee has failed, the board may void the license without the necessity of a hearing. If the licensee files a written objection, the board shall file an accusation based on the licensee remaining closed. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

(b) In the event that the license of a wholesaler or pharmacy is voided pursuant to subdivision (a) or revoked pursuant to Article 9 (commencing with Section 4350), or a wholesaler or pharmacy notifies the board of its intent to remain closed or to discontinue business, the licensee shall, within 10 days thereafter, arrange for the transfer of all dangerous drugs and controlled substances to another licensee authorized to possess the dangerous drugs and controlled substances. The licensee transferring the dangerous drugs and controlled substances shall immediately confirm in writing to the board that the transfer has taken place.

(c) If a pharmacy or wholesaler fails to comply with subdivision

(b), the board may seek and obtain an order from the superior court in the county in which the pharmacy or wholesaler is located, authorizing the board to enter the pharmacy or wholesaler and inventory and store, transfer, sell, or arrange for the sale of, all dangerous drugs and controlled substances found in the pharmacy or wholesaler.

(d) In the event that the board sells or arranges for the sale of any dangerous drugs or controlled substances pursuant to subdivision (c), the board may retain from the proceeds of the sale an amount equal to the cost to the board of obtaining and enforcing an order issued pursuant to subdivision (c). The remaining proceeds, if any, shall be returned to the licensee from whose premises the dangerous drugs or controlled substances were removed.

The licensee shall be notified of his or her right to the remaining proceeds by personal service or by certified mail, postage prepaid.

Where a statute or regulation requires the licensee to file with the board his or her address, and any change of address, the notice required by this subdivision may be sent by certified mail, postage prepaid, to the latest address on file with the board and service of notice in this manner shall be deemed completed on the 10th day after the mailing.

If the licensee is notified as provided in this subdivision, and the licensee fails to contact the board for the remaining proceeds within 30 calendar days after personal service has been made or service by certified mail, postage prepaid, is deemed completed, the remaining proceeds shall be deposited by the board into the Pharmacy Board Contingent Fund. These deposits shall be deemed to have been received pursuant to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure and shall be subject to claim or other disposition as provided in that chapter.

(e) For the purposes of this section, "closed" means not engaged in the ordinary activity for which a license has been issued for at least one day each calendar week during any 120-day period.

(f) Anyone who knowingly violates subdivision (b) is guilty of a misdemeanor.

(g) Nothing in this section shall be construed as requiring a pharmacy to be open seven days a week.

SEC. 2. Section 4366 of the Business and Professions Code is amended and renumbered to read:

4367. Any person who has been denied a license, permit, or registration, or whose license, permit, or registration has been revoked or is under suspension, or who has failed to renew his or her license, permit, or registration while it was under suspension, or who has been a member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license, permit, or registration has been denied or revoked, is under suspension or has been placed on probation, and while acting as such member, officer, director, associate, or partner had knowledge of or

knowingly participated in any conduct for which the license, permit, or registration was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as an officer, director, associate, or partner of a licensee, permittee, or registrant. This prohibition shall remain in effect for a period not to exceed five years. Where the license, permit, or registration is denied or revoked, the prohibition shall continue until the license, permit, or registration is used or reinstated.

SEC. 3. Section 4367 of the Business and Professions Code is amended and renumbered to read:

4368. Whenever a person is prohibited from serving as an officer, director, associate, or partner of a licensee, permittee, or registrant as provided for by Section 4367, the board shall notify in writing each licensee, permittee, or registrant for whom the person is an officer, director, associate, or partner of the prohibition. The board shall send the notification to the licensee, permittee, or registrant's address of record. The licensee, permittee, or registrant shall have 30 days from the date that the notice is sent to remove and replace the prohibited person and file a change of permit to reflect that change. Failure to file a change of permit within the 30-day period shall constitute grounds for disciplinary action.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1224

An act to add and repeal Section 33674.5 of the Health and Safety Code, relating to property tax revenues, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 33674.5 is added to the Health and Safety Code, to read:

33674.5. (a) Notwithstanding Section 33674, any redevelopment agency which meets all of the requirements of subdivision (b) shall be entitled to be allocated and paid the portion of taxes provided by subdivision (b) of Section 33670 for the first time during the fiscal year commencing July 1, 1984.

(b) In order to be eligible to receive the tax increment pursuant to subdivision (a), a redevelopment agency shall have done all of the following:

(1) Transmitted the information required by Section 33327 to the county auditor, assessor, and tax collector and to the State Board of Equalization.

(2) Adopted a redevelopment plan which became effective after December 1, 1983, but prior to January 1, 1984.

(3) Recorded a copy of the description of the redevelopment project area and the statement required by Section 33373 prior to December 31, 1983.

(4) Transmitted all required documents pursuant to Section 33375 prior to the effective date of this section.

(c) The county and the State Board of Equalization shall not be required, in implementing this section, to establish a tax rate area for the redevelopment project area for the fiscal year commencing July 1, 1984.

(d) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date.

SEC. 2. It is the intent of the Legislature to further review and make recommendations on the procedure utilized in determining the exchange of all local revenues in the case of a new city or district formation. Further, it is the intent of the Legislature to hold interim hearings to develop legislation for the 1985–86 Regular Session of the Legislature which would revise current procedures.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Certain redevelopment agencies which adopted redevelopment project areas in 1983 will be unable to receive their initial allocation of tax increment moneys and commence implementation of their redevelopment projects because the State Board of Equalization did not, during 1983, receive certain documents adopted and recorded by these agencies. In order to enable these agencies to commence the elimination of the conditions within the adopted project areas which are injurious and inimical to the public health, safety, and welfare of the people, it is necessary for this act to take effect immediately.

CHAPTER 1225

An act to amend and repeal Section 117.9 of, and to add and repeal Section 117.24 of, the Code of Civil Procedure, and to add and repeal Section 16370.5 of the Vehicle Code, relating to small claims court.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 117.9 of the Code of Civil Procedure is amended to read:

117.9. If the judgment or order be against the defendant or cross defendant, he or she shall pay the same forthwith or at any time and upon such terms and conditions as the judge shall prescribe. At the option of the judgment debtor, upon payment of the fee provided for in this section, payment of the full judgment of a small claims court may be made to the sheriff, marshal, or constable of the court in which the judgment was entered. Upon receipt of such a payment, plus the required fee accompanied by the defendant's request to pay judgment setting forth the same information as contained on a writ of execution, the sheriff, marshal, or constable shall remit the payment owing to the judgment creditor. The board of supervisors shall set a fee for handling these payments not to exceed the actual costs of administering this provision, which shall be paid by the judgment debtor and which may not be waived by the court. Immediately upon receipt of payment of the judgment, the judgment creditor or the assignee of record shall file with the court an acknowledgment of satisfaction of judgment. Any judgment creditor or assignee of record who, after payment in full of the judgment, and after written demand by the judgment debtor, fails without just cause for a period of 15 days to execute, and file an acknowledgment of satisfaction of judgment with the court is liable to the judgment debtor or his or her grantees or heirs for all damages sustained by reason of such failure and, in addition, the sum of fifty dollars ($50).

A canceled check or money order which was written subsequent to the judgment by the judgment debtor for the full amount of the judgment, made payable to and endorsed by the judgment creditor, or a cash receipt written subsequent to the judgment for the full amount thereof and signed by the judgment creditor, shall constitute a rebuttable presumption of satisfaction of judgment when filed with the clerk of the small claims court together with a statement signed by the judgment debtor under penalty of perjury stating all of the following:

(a) The judgment creditor has been paid in full the amount of the judgment and costs.

(b) The judgment creditor has been requested to file an

acknowledgment of satisfaction of judgment and refuses to do so or the present address of the judgment creditor is unknown.

(c) The documents attached constitute evidence of receipt of this payment.

In the event a rebuttable presumption of satisfaction of judgment is created pursuant to this section, a satisfaction of judgment shall be entered.

SEC. 2. Section 117.24 is added to the Code of Civil Procedure, to read:

117.24. (a) If the judgment of a small claims court, in the amount of five hundred dollars ($500) or less against the driver of a motor vehicle arising from a motor vehicle accident occurring on a California highway remains unsatisfied for more than 90 days after the judgment becomes final, the judgment creditor may file with the Department of Motor Vehicles a notice stating that a small claims judgment against the driver arising from an automobile accident occurring on a California highway has not been satisfied. At the time judgment is entered, the judge shall make a determination as to whether the judgment results from a motor vehicle accident occurring on a California highway caused by the judgment debtor's operation of a motor vehicle. The parties shall receive a notice of the judge's determination as provided by the Judicial Council.

(b) To file the notice, the creditor shall submit the notice to the Department of Motor Vehicles and pay a fee set by the department. The fee shall be used by the department to finance the costs of administering the provisions of this section and shall not exceed the department's actual costs. The judgment creditor shall certify under penalty of perjury that the small claims judgment has not been satisfied prior to filing the notice. No notice shall be filed against any driver unless the creditor presents the judgment of the court with the judge's determination that the claim is the result of an automobile accident occurring on a California highway caused by the judgment debtor's operation of a motor vehicle. At the time the notice is filed, the department shall give the creditor a copy of the notice, which shall indicate the filing fee paid by the creditor and provide a space to be signed by the judgment creditor acknowledging payment of the judgment by the judgment debtor, to be returned to the judgment debtor once the judgment is satisfied.

(c) Upon receipt of a notice, the Department of Motor Vehicles shall attempt to notify the judgment debtor by telephone, if possible, otherwise by certified mail, that his or her privilege to operate a motor vehicle will be suspended for a period of 90 days, beginning 10 days following receipt of notice by the department from the judgment creditor, unless satisfactory proof, as set forth in subdivision (d), is provided to the department before that date.

(d) The Department of Motor Vehicles shall terminate the suspension, or the suspension proceedings, upon any of the following:

(1) Receipt of proof that the outstanding small claims judgment filed against the judgment debtor has been satisfied, either (A) by

a copy of the notice required by this section signed by the judgment creditor acknowledging satisfaction of judgment, or (B) by a statement signed by the judgment debtor under penalty of perjury declaring that the judgment has been satisfied.

(2) Receipt of proof that a court-ordered payment schedule is being complied with.

(3) Proof that the judgment debtor had insurance covering the accident sufficient to satisfy the judgment.

(4) A deposit with the department of a sum equal to the amount of the unsatisfied judgment, when the judgment debtor presents proof, satisfactory to the department, of inability to locate the judgment creditor.

(5) At the end of 90 days.

(e) When the suspension has been terminated under one of the above conditions, the action is final and may not be reinstituted. Whenever the suspension is terminated, the provisions of Section 14904 of the Vehicle Code shall apply. Money deposited with the Department of Motor Vehicles pursuant to this section shall be handled in the same manner as money deposited pursuant to subdivision (d) of Section 16377 of the Vehicle Code.

(f) No public agency is liable for any injury caused by the suspension, termination of suspension, or the failure to suspend any person's privilege to operate a motor vehicle as authorized by this section.

(g) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 3. Section 16370.5 is added to the Vehicle Code, to read:

16370.5. The department shall suspend the privilege of any person to operate a motor vehicle as specified in Section 117.24 of the Code of Civil Procedure. Except as provided in this section, an action brought under Section 117.24 of the Code of Civil Procedure shall not be governed by Chapter 2 (commencing with Section 16250) of Division 7.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 4. Section 117.9 of the Code of Civil Procedure, as amended by Section 1 of this act, shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 117.9 of the Code of Civil Procedure, as amended by Section 28 of Chapter 497 the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Sections 2 and 3 of this act shall become operative on July 1, 1985.

SEC. 6. No appropriation is made and no reimbursement is

required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1226

An act to amend Sections 53600 and 53630 of, and to amend and repeal Section 53646 of, the Government Code, relating to public moneys.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 53600 of the Government Code, is amended to read:

53600. As used in this article, "local agency" means county, city, city and county, including a chartered city or county, school district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.

SEC. 2. Section 53630 of the Government Code is amended to read:

53630. As used in this article:

(a) "Local agency" means county, city, city and county, including a chartered city or county, or other public agency or corporation.

(b) "Treasurer" means treasurer of the local agency.

(c) "Depository" means a state or national bank or state or federal savings bank or savings and loan association, or a state or federal credit union in which the moneys of a local agency are deposited.

(d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco.

(e) "Security" means any of the eligible securities or obligations listed in Section 53651.

(f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.

(g) "Administrator" means the Administrator of Local Agency Security of the State of California.

SEC. 3. Section 53646 of the Government Code is amended to read:

53646. (a) The treasurer or chief fiscal officer shall annually render to the legislative body of the local agency a statement of investment policy.

(b) The treasurer or chief fiscal officer shall render a monthly report to the chief executive officer and legislative body of the local agency showing the type of investment, institution, date of maturity, amount of deposit, current market value for all securities with a maturity of more than 12 months, rate of interest, and such data as may be required by the local agency. The monthly report shall specify in detail investments made pursuant to subdivision (i) of Section 53601, Section 53601.1, and subdivision (i) of Section 53635.

The monthly report shall state its relationship to the statement of investment policy.

In the monthly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 53646 of the Government Code, as amended by Section 8 of Chapter 105 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. It is the intent of the Legislature that the provisions of Section 3 of this act apply to all local agencies, whether chartered or not.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1227

An act to amend Sections 366.25, 387 and 652 of, and to add Section 652.5 to, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (d) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future

status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or 16507.4 and periodically but no less frequently than once each 18 months thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) At the hearing the court shall first determine whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to the provisions of this article, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is not adoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) apply, but that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the appropriate county department to initiate or facilitate guardianship proceedings, unless the minor's foster parents are unable to become legal guardians of the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(3) If the court finds that the minor is not adoptable and that there is not a suitable adult available to become the legal guardian of the child, the court shall order the county welfare department or probation department to facilitate the placement of the minor in a home environment that can reasonably be expected to be stable and permanent. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(4) (A) If the court finds that the minor is not adoptable, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed homefinding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed homefinding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the homefinding agency to third persons injured by the minor. Those minors whose care, custody, and control is transferred to a homefinding agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit

reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of those periods.

(i) Subsequent permanency planning hearings need not be held if: (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption, or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board, except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 2. Section 387 of the Welfare and Institutions Code is amended to read:

387. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or

commitment to a private or county institution, shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 335 and 337.

(c) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 7 (commencing with Section 305).

SEC. 3. Section 652 of the Welfare and Institutions Code is amended to read:

652. Whenever the probation officer has cause to believe that there was or is within the county, or residing therein, a person within the provisions of Section 601 or 602, the probation officer shall immediately make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. However, this section does not require an investigation by the probation officer with respect to a minor delivered or referred to an agency pursuant to subdivision (b) of Section 626.

SEC. 4. Section 652.5 is added to the Welfare and Institutions Code, to read:

652.5. Whenever an officer refers or delivers a minor pursuant to subdivision (b) of Section 626, the agency to which the minor is referred or delivered shall immediately make such investigation as that agency deems necessary to determine what disposition of the minor that agency shall make and initiate a service program for the minor when appropriate. If the referral agency does not initiate a service program on behalf of a minor referred to the agency within 20 calendar days, or initiate a service program on behalf of a minor delivered to the agency within 10 days, that agency shall immediately notify the referring officer of that decision in writing. The referral agency shall retain a copy of that written notification for 30 days.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by

that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1228

An act to add Sections 13113.8 and 18029.6 to the Health and Safety Code, relating to fire protection.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 13113.8 is added to the Health and Safety Code, to read:

13113.8. (a) On and after January 1, 1986, every single-family dwelling and factory-built housing, as defined in Section 19971, which is sold shall have an operable smoke detector. The detector shall be approved and listed by the State Fire Marshal and installed in accordance with the State Fire Marshal's regulations. Unless prohibited by local rules, regulations, or ordinances, a battery-operated smoke detector shall be deemed to satisfy the requirements of this section.

(b) On and after January 1, 1986, the transferor of any real property containing a single-family dwelling, as described in subdivision (a), whether the transfer is made by sale, exchange, or real property sales contract, as defined in Section 2985 of the Civil Code, shall deliver to the transferee a written statement indicating that the transferor is in compliance with this section. The disclosure statement shall be either included in the receipt for deposit in a real estate transaction, an addendum attached thereto, or a separate document.

(c) The transferor shall deliver the statement referred to in subdivision (b) as soon as practicable before the transfer of title in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract, as defined in Section 2985. For purposes of this subdivision, "delivery" means delivery in person or by mail to the transferee or transferor, or to any person authorized to act for him or her in the transaction, or to additional transferees who have requested delivery from the transferor in writing. Delivery to the spouse of a transferee or transferor shall be deemed delivery to a transferee or transferor, unless the contract states otherwise.

(d) This section does not apply to any of the following:

(1) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited

to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, or transfers by a sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale.

(4) Transfers by a fiduciary in the course of the administration of a guardianship, conservatorship, or trust.

(5) Transfers from one coowner to one or more coowners.

(6) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(7) Transfers between spouses resulting from a decree of dissolution of a marriage, from a decree of legal separation, or from a property settlement agreement incidental to either of those decrees.

(8) Transfers by the Controller in the course of administering the Unclaimed Property Law provided for in Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(9) Transfers under the provisions of Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(e) No liability shall arise, nor any action be brought or maintained against, any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow, for any error, inaccuracy, or omission relating to the disclosure required to be made by a transferor pursuant to this section. However, this subdivision does not apply to a licensee, as defined in Section 10011 of the Business and Professions Code, where the licensee participates in the making of the disclosure required to be made pursuant to this section with actual knowledge of the falsity of the disclosure.

(f) Except as otherwise provided in this section, this section shall not be deemed to create or imply a duty upon a licensee, as defined in Section 10011 of the Business and Professions Code, or upon any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow, to monitor or ensure compliance with this section.

(g) No transfer of title shall be invalidated on the basis of a failure to comply with this section, and the exclusive remedy for the failure to comply with this section is an award of actual damages not to exceed one hundred dollars ($100), exclusive of any court costs and attorney's fees.

(h) Local ordinances requiring smoke detectors in single-family dwellings may be enacted or amended. However, the ordinances

shall satisfy the minimum requirements of this section.

(i) For the purposes of this section, "single-family dwelling" does not include a manufactured home as defined in Section 18007, a mobilehome as defined in Section 18008, or a commercial coach as defined in Section 18001.8.

(j) This section shall not apply to the installation of smoke detectors in dwellings intended for human occupancy, as defined in and regulated by Section 13113.7 of the Health and Safety Code, as added by Senate Bill No. 1448 in the 1983–84 Regular Session.

SEC. 2. Section 18029.6 is added to the Health and Safety Code, to read:

18029.6. On and after January 1, 1986, all used manufactured homes, used mobilehomes, and used commercial coaches which are sold shall have a smoke detector which is operable on the date of transfer of title. The department may promulgate regulations to carry out the provisions of this section.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1229

An act to amend Sections 91502.1, 91503, 91530, 91531, and 91538 of the Government Code, and to amend Sections 17133 and 17145 of the Revenue and Taxation Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 91502.1 of the Government Code is amended to read:

91502.1. (a) The Legislature declares that it is the policy of this state, consistent with environmental, resource conservation, and other policies, to facilitate for and on behalf of private enterprise the acquisition of property, either suitable for or evidencing an obligation respecting any one or more of the activities or uses set forth in Section 91503, through the issuance of revenue bonds by authorities in accordance with the criteria set forth in subdivision (b), and that such additional method of financing when made available in accordance with such policy serves a public purpose and

will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) The Legislature declares that the criteria to be utilized to determine whether such method of financing may be made available shall include the following:

(1) Whether employment benefits arising out of the use of the facilities may ensue by securing or increasing (A) the number of employees of the company and any other direct users of the facilities or (B) compensation for such employment, the value of which may be expressed in terms of aggregate direct employment earnings.

(2) Whether energy, mineral or natural or cultivated resource conservation benefits arising out of the use of the facilities may ensue by the reduction of waste, improvement of recovery or intensification of utilization of resources that otherwise would be less intensively utilized, or wasted, or not recovered, the value of which may be expressed in terms of the price and amount of the energy, minerals, or other resources saved or recovered, or the price and amount of equivalent energy, minerals, or other resources which would be utilized were the resources not utilized as intensively.

(3) Whether consumer benefits arising out of the use of the facilities may ensue by any of the following:

(A) Improvement of the quantity or quality or reduction in the price of products, energy, or related services or facilities, the value of which may be expressed in terms of quantity and price differentials.

(B) Production of new or improved products, or related services or facilities, the value of which may be expressed in terms of quantity and price.

(C) The transfer of ownership of a business or place of work which has closed or is in danger of closing, to its employees for the purpose of formation of an employee-owned corporation, as defined by subdivision (c).

(4) Whether employment, resource conservation and consumer benefits may ensue by the conversion of an abandoned plant site or of a site that has been prepared for use by means of an Urban Development Action Grant into an industrial park, making available a productive use of land or facilities capable of generating new economic activity.

(c) For purposes of this section, "employee-owned corporation" means a corporation which is under employee ownership. "Employee ownership" means the majority ownership of a business in this state by a majority of its employees under either of the following methods:

(1) Establishment of an Employee Stock Ownership Plan (ESOP) pursuant to the federal Employee Retirement Income and Security Act (ERISA). All stock initially issued at the time of formation of the employee-owned corporation shall be allocated to the employees and become fully vested within five years of the date the employee-owned corporation begins operation. Voting rights of the

employees are established in accordance with Section 409A (e) of the Internal Revenue Code as effective on January 1, 1983.

(2) Establishment of a worker-owned cooperative.

SEC. 2. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to the provisions of this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to such an activity or use, shall not include any of the activities described in (and not excepted from) subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities or motor carrier terminals with respect to any products of agriculture, forestry, mining, or manufacture, provided that these activities have demonstrated job creation or retention potential.

(2) Industrial park land acquisition and development activities undertaken on sites where one or more industrial users have permanently ceased operations resulting in a loss of employment, or construction of buildings and facilities of the types authorized in paragraphs (1), (3), and (4) on an industrial park site or sites which have been prepared for use by means of an Urban Development Action Grant.

(3) Energy development, production, collection, conversion (from one form of energy to another), storage, or conservation activities, or energy transmission, transportation, or conveyance as distinguished from distribution activities.

(4) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(b) (1) Residential real property for family unit or other housing activities.

(2) Sports activities.

(3) Convention or trade show activities.

(4) Airport, dock, wharf, mass commuting, or parking activities, or storage or training activities related to any thereof.

(5) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, except any such activities if the property acquired is suitable for one or more of the activities described in paragraph (2) or (3) of subdivision (a).

(6) Air or water pollution control activities.

(7) Water furnishing activities.

(8) Telephone or community television furnishing activities.

(9) Industrial park land acquisition and development activities, except as defined in paragraph (2) of subdivision (a).

(10) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1954, as amended, undertaken by such persons, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 3. Section 91530 of the Government Code is amended to read:

91530. (a) Applications for projects or companies not in accordance with the reasonable priorities and criteria which an authority may establish need not be accepted and further processed by an authority.

(b) Acceptance of any application in no way obligates an authority to adopt a resolution of intention or undertake the project proposed.

(c) Upon acceptance of any application and request of a company, the board shall determine whether it is likely that the undertaking of the project by the authority will be a substantial factor in the accrual of one or more of the public benefits from the use of the facilities as proposed in the application, whether the activities or uses are in accord with Section 91503, and whether the project is otherwise in accord with the purposes and requirements of this title.

(d) Upon affirmative determinations under subdivision (c), the board may express the present intention of the authority to issue bonds in connection with the project and shall evidence the same by the adoption of a resolution of intention to undertake the project. The resolution of intention shall briefly describe the facilities, state the estimated principal amount of the bond issue (which estimate shall not limit the amount of bonds which may be issued), and identify the company that is the applicant, and may include other provisions as the board shall prescribe.

(e) A notice of the filing of an application, naming the company that is the applicant, briefly describing the facilities, stating the estimated principal amount of the bond issue and referring to the application for further particulars, shall be published by the secretary of the authority pursuant to Section 6061, and in the event the facilities are proposed to be located in a city and the project is proposed to be undertaken by an authority the jurisdiction of which is countywide, a copy of the notice shall be mailed by the secretary of the authority to the governing body of such city. Any amendment, supplement or clarification of an application which changes the company that is the applicant, the description of the facilities, or the estimated principal amount of the bond issue, as previously noticed, shall be noticed in the same manner.

(f) A copy of the application shall be filed with the public agency. The authority shall not issue bonds with respect to any project unless the public agency shall approve, conditionally or unconditionally, the project, including the issuance of bonds therefor. Action to approve or disapprove a project shall be taken within 45 days of the filing with the public agency. Certification of approval or disapproval shall be made by the clerk of the public agency to the authority. If the governing body has declared itself to be the board pursuant to Section 91523, the approvals and other actions required of the authority or the public agency by this section may be taken and performed on a joint and consolidated basis, as may be deemed

practicable in the discretion of the public agency.

(g) A resolution of intention may be revoked, amended, supplemented or clarified by the board, at any time prior to entry into the project agreements. The project agreements, indenture, bonds and other proceedings shall be consistent with the resolution of intention, and shall supersede it except to the extent otherwise expressed.

SEC. 4. Section 91531 of the Government Code is amended to read:

91531. (a) At any time following adoption of the resolution of intention, the board shall request that the commission make the determinations authorized by this section and shall provide for transmission to the commission of the fee required by the commission and such information as may be required by the commission.

(b) The commission shall review the submission and shall, by express findings on the basis of the submission, determine compliance with the following criteria:

(1) Public benefits, determined in accordance with the policy stated in Section 91502.1, from the use of the facilities likely will substantially exceed any public detriment from issuance of bonds in the estimated principal amount proposed in the application.

(2) Neither the completion of the project nor the operation of the facilities will have the proximate effect of relocation of any substantial operations of the company from one area of the state to another or in the abandonment of any substantial operations of the company within other areas of the state, or, if the completion or operation will have either of the effects, then the completion or operation is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(3) The proposed issuance of bonds qualifies for issuance under the provisions of Article 5 (commencing with Section 91570).

(c) Written notification of the determinations of the commission shall be given the authority.

(d) Upon failure of the commission to make determinations as to compliance with the criteria within 60 days of the receipt of the submission, unless the time is extended by written consent of the authority, the commission shall lose jurisdiction to make the determinations, and the authority shall determine compliance with the criteria.

(e) A proposed issuance of refunding bonds shall be evaluated solely under the requirement of paragraph (3) of subdivision (b), upon request of the board following the determination provided for in subdivision (j) of Section 91527.

(f) Determinations of the commission or of an authority as provided in subdivision (j) of Section 91527, Section 91530, and this section shall be final and conclusive.

(g) The authority shall not deliver bonds for the project until this

section has been complied with.

(h) It is the intention of the Legislature that submissions be reviewed by the commission individually and not comparatively and that determinations be made generally in the order of receipt of the submissions. To the extent consistent with accomplishment of the public purposes as provided in Section 91502, priority consideration shall be given submissions on behalf of small and medium-size companies. To the extent that the public benefits finding under paragraph (1) of subdivision (b) of this section is based on employment benefits under paragraph (1) of subdivision (b) of Section 91502.1, the following considerations, as alternatives to each other, may in accordance with the submission, additionally be considered in making such finding:

(1) The willingness of the company to provide for the screening for employment of (i) individuals affected by industrial relocations or abandonments, (ii) new entrants or reentrants to the workforce, (iii) unemployed or partially unemployed individuals who are registered for work at a public employment office or other approved place pursuant to Section 1253 of the Unemployment Insurance Code, or (iv) individuals participating in job training or placement programs directly calculated to increase employability or improve the employment of such individuals.

(2) The location of the facilities in or conveniently accessible to a portion of the workforce residing within an economically distressed area of the state or an area of the state affected by industrial depression or decline.

An adverse finding shall not be made merely because each of such alternative considerations is inapplicable if the facilities are located in or are conveniently accessible to a portion of the workforce residing within a pocket of economic distress or an area of the state largely rural in character.

(i) Projects described in paragraph (2) of subdivision (a) of Section 91503 shall be approved without regard to specific estimates of future employment if the public purposes set forth in paragraph (4) of subdivision (b) of Section 91502.1 are demonstrated. The commission shall, for that purpose, receive a completed plan for the industrial park development, including evidence of all local zoning, land use and environmental reviews or approvals which are necessary to authorize the initial development of industrial park facilities. It shall not be necessary for the developer to have commitments to sell or lease any sites or buildings in the industrial park to ultimate users.

SEC. 5. Section 91538 of the Government Code is amended to read:

91538. (a) Bonds may be sold at such prices as the board directs, at public or private sale.

(b) The aggregate principal amount of bonds of an issue pursuant to this article shall not exceed ten million dollars ($10,000,000), except in the case of an issue of bonds for industrial park land

acquisition and development activities described in paragraph (2) of subdivision (a) of Section 91503.

For purposes of this subdivision, "development" includes the provision of water, sewage, drainage, or similar facilities or the provision of transportation, power, or communication facilities which are incidental to the use of the site as an industrial park, but, except with respect to these facilities, does not include the provision of structures or buildings.

SEC. 6. Section 17133 of the Revenue and Taxation Code is amended to read:

17133. Gross income does not include income which this state is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this state. Income which this state is prohibited from taxing includes interest on bonds issued by this state or a local government in this state, and the determination of whether a bond is issued by this state or a local government in this state shall be made without regard to (a) the source of payment of that bond or the security for that bond, public or private, and (b) whether or not public improvements are financed.

SEC. 7. Section 17145 of the Revenue and Taxation Code is amended to read:

17145. (a) If, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of a diversified management company consists of bonds, interest on which is exempt from taxation under the Constitution or any statute of this state, that company shall be qualified to pay exempt-interest dividends to its shareholders.

(b) For purposes of this section—

(1) The term "exempt-interest dividend" means any dividend or part thereof paid by a diversified management company in an amount not exceeding the interest received by it during its taxable year on bonds, interest on which is exempt from taxation under the Constitution or any statute of this state, and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year.

(2) The term "diversified management company" means a corporation which meets the requirements of Section 23701m.

(3) The term "value" means, with respect to securities (other than those of majority-owned subsidiaries) for which market quotations are readily available, the market value of those securities; and with respect to other securities and assets, fair market value as determined in good faith by the board of directors, except that in the case of securities of majority-owned subsidiaries which are investment companies, as defined in the Investment Company Act of 1940, that fair value shall not exceed market value or asset value, whichever is higher.

(c) An exempt-interest dividend shall be treated by recipients thereof as an item of interest excludable from income under Section

17133.

SEC. 8. The amendments to Sections 17133 and 17145 of the Revenue and Taxation Code made by this act do not constitute a change in, but are declaratory of, the existing law.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health and safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate, as soon as possible, opportunities for economic development by financing with revenue bonds the development of industrial parks on certain sites, it is necessary that this act take effect immediately.

CHAPTER 1230

An act to amend Sections 25160, 25161, 25163, 25169.1, 25180, and 25191 of the Health and Safety Code, and to add Section 2505 to the Vehicle Code, relating to hazardous waste.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, "manifest" means the Uniform Hazardous Waste Manifest required by this section. A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials which the person completing the manifest reasonably believes are hazardous waste.

(b) Any person producing a hazardous waste shall provide the person who will transport the hazardous waste with an applicable Uniform Hazardous Waste Manifest, which is completed as required by the department. The producer shall provide the manifest to the driver if the hazardous waste will be transported by vehicle, or to the person designated by the railroad corporation or vessel operator if the hazardous waste will be transported by rail or vessel. The producer shall also send a copy of the manifest to the department within 30 days after submitting the hazardous waste for transport.

(c) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.) or by regulations adopted by the United States Department of Transportation. However, the form

of the manifest and the information required shall be consistent with federal regulations.

Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations, including, but not limited to, the number of the vehicle which will transport the hazardous waste, as specified in the certificate of compliance issued pursuant to Section 25168.3.

(d) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, officer of the California Highway Patrol, any local health officer, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste which the department may require.

(e) Any person who transports any waste, as defined by Section 25122, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(f) Any person who transports hazardous waste shall transfer a copy of the manifest to the person who is responsible for the disposal of the waste, at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(g) Any person who receives hazardous waste for disposal, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days after receiving the hazardous waste.

SEC. 2. Section 25161 of the Health and Safety Code is amended to read:

25161. The department shall adopt and enforce all rules and regulations necessary and appropriate to accomplish the purposes of Section 25160.

SEC. 3. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) Except as otherwise provided in subdivisions (b) and (c), it is unlawful for any person to carry on, or engage in the transportation of hazardous wastes, unless the person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a transporter

who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste hauler, for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

Commencing January 1, 1986, the hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Chapter 6 (commencing with Section 25000) are exempt from the requirements of subdivision (a).

(c) Persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the requirements of subdivisions (a) and (e) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The contents of any single container hauled do not exceed one gallon or 10 pounds.

(2) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(3) Different hazardous waste materials are not mixed within a container during the transporting.

(4) The hazardous waste transported is not listed as an extremely hazardous waste in Section 66685 of Title 22 of the California Administrative Code.

(5) The person transporting the hazardous waste is the producer of that hazardous waste.

(d) Any person registered as a hazardous waste hauler pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with the terms, conditions, orders, and directions as the health officer or the health officer's authorized representative may deem necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city, county, or city and county in which the

registered hazardous waste hauler will be conducting the activities described in Section 25001.

(e) It is unlawful for any person to transport hazardous waste in any truck, trailer, semitrailer, vacuum tank, or cargo tank not inspected by the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to United States Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

SEC. 4. Section 25169.1 of the Health and Safety Code is amended to read:

25169.1. (a) The California Highway Patrol shall inspect every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used to transport hazardous waste on the highways at least once a year to ascertain whether its construction, design, equipment and safety features comply with the regulations promulgated by the State Department of Health Services pursuant to Section 25168.1.

(b) No person shall transport hazardous waste on streets and highways within the State of California, unless the truck, trailer, semitrailer, vacuum tank, cargo tank, or container in which the hazardous waste is being transported displays a certificate of compliance, issued by the State Department of Health Services, showing that the vehicle has been inspected within the last 12 months.

(c) For the purposes of this section, "container" means any portable tank or bin which has a capacity greater than 110 U.S. gallons.

SEC. 5. Section 25180 of the Health and Safety Code is amended to read:

25180. (a) The standards and regulations adopted by the department pursuant to Section 25150 shall be enforced by the department or any local health officer or any local public officer as designated by the director.

(b) In addition to the persons specified in subdivision (a), and any traffic officer, as defined by Section 625 of the Vehicle Code, any peace officer specified in Section 830.1 of the Penal Code may enforce Section 25160, subdivisions (a) and (e) of Section 25163, and subdivision (b) of Section 25169.1.

SEC. 6. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not more than one year, or by both the fine and imprisonment. If the conviction is for a violation committed after a first conviction of the person under this section, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both

the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department and is required to carry out the department's responsibilities pursuant to this chapter in response to a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) or (e) of Section 25163, or in violation of any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5) or (7) of that subdivision shall be imposed only (1) on the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (2) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties specified in paragraph (6) of subdivision (a).

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred

dollars ($500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or both the fine and imprisonment:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(d) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail not more than one year, or by both the fine and imprisonment. If the conviction is for a violation committed after a first conviction of the person under this section, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment.

(1) Transports any hazardous waste to a facility which does not have a permit from the department issued pursuant to this chapter, or to any point which is not authorized according to this chapter.

(2) Treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(e) Whenever any person is prosecuted for a violation pursuant to paragraph (6) of subdivision (a), subdivision (c), or paragraph (1) of subdivision (d), the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

SEC. 7. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. If the conviction is for a second or subsequent violation of this section, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the

county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when the information has been requested by the department and is required to carry out the department's responsibilities pursuant to this chapter in response to a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) or (e) of Section 25163, or in violation of any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5) or (7) of that subdivision shall be imposed only (1) on the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (2) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties specified in paragraph (6) of subdivision (a).

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation, or by imprisonment in the county jail for not more than six months, or both the fine and imprisonment:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department pursuant to this chapter, or at any point which is not authorized in accordance with this chapter, shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment.

(e) Whenever any person is prosecuted for a violation pursuant to paragraph (6) of subdivision (a) or subdivision (c) of this section or subdivision (c) of Section 25189.5, the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

SEC. 8. Section 2505 is added to the Vehicle Code, to read:

2505. Notwithstanding Sections 2501 and 2502, for the purpose of staggering license renewals subject to this chapter, the commissioner may, during any 12-month period, issue licenses that expire 6 to 18 months from the date of issue. Subsequent renewal of these licenses shall be for a period of 12 months. Fees with respect to these licenses for more or less than one year shall be prorated accordingly.

This section applies only to licenses for the transportation of hazardous materials established on or after January 1, 1982.

SEC. 9. Section 7 of this bill incorporates amendments to Section 25191 of the Health and Safety Code proposed by both this bill and AB 4038. It shall only become operative if (1) both bills are enacted

and become effective on or before January 1, 1985, (2) each bill amends Section 25191 of the Health and Safety Code, and (3) this bill is enacted after AB 4038, in which case Section 25191 of the Health and Safety Code, as amended by AB 4038, shall remain operative only until the operative date of this bill, at which time Section 7 of this bill shall become operative, and Section 6 of this bill shall not become operative.

SEC. 10. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 11. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1231

An act to amend and renumber Section 1274.3 of the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1274.3 of the Unemployment Insurance Code is amended to read:

1274.3. A determination of potential eligibility for benefits under this article shall be issued to an unemployed individual if the director finds all of the following:

(a) The individual has been unemployed for four or more continuous weeks, or the individual is unemployed and unlikely to return to his or her most recent workplace because work opportunities in the individual's job classification are impaired by a plant closure or a substantial reduction in employment at the individual's most recent workplace, or by advancement in technological improvements, the effects of automation and relocation in the economy, and foreign competition as set forth in petitions certified under the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.), or because of a mental or physical disability which prohibits the individual from utilizing existing occupational skills.

(b) One of the substantial causes of the individual's

unemployment is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity and that the lack of employment opportunities is expected to continue for an extended period of time, or if the individual's occupation is one for which there is a seasonable variation in demand in the labor market and the individual has no other skill for which there is current demand.

(c) The training or retraining course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the labor market area in this state in which the individual intends to seek work and there is not a substantial surplus of workers with requisite skills in the occupation in that area.

(d) The training or retraining course of instruction is one approved by the director and can be completed within one year.

(e) The training or retraining course is prescribed for the primary purpose of training the applicant in skills that will allow him or her to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of any degree from a college, community college, or university.

(f) The individual can be reasonably expected to complete the training or retraining successfully.

SEC. 2. Section 1274.3 of the Unemployment Insurance Code is amended and renumbered to read:

1269. A determination of potential eligibility for benefits under this article shall be issued to an unemployed individual if the director finds that any of the following apply:

(a) The training is authorized by Title III of the federal Job Training Partnership Act or by Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(b) The training is performance-based and authorized by Division 8 (commencing with Section 15000) or by the federal Job Training Partnership Act (P.L. 97-300).

(c) That all of the following apply:

(1) The individual has been unemployed for four or more continuous weeks, or the individual is unemployed and unlikely to return to his or her most recent workplace because work opportunities in the individual's job classification are impaired by a plant closure or a substantial reduction in employment at the individual's most recent workplace, or by advancement in technological improvements, the effects of automation and relocation in the economy, and foreign competition as set forth in petitions certified under the federal Trade Act of 1974, as amended (Title 19, United States Code, Sections 2101 et seq.), or because of a mental or physical disability which prohibits the individual from utilizing existing occupational skills.

(2) One of the substantial causes of the individual's unemployment is a lack of sufficient current demand in the

individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity and that the lack of employment opportunities is expected to continue for an extended period of time, or, if the individual's occupation is one for which there is a seasonable variation in demand in the labor market and the individual has no other skill for which there is current demand.

(3) The training or retraining course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the labor market area in this state in which the individual intends to seek work and there is not a substantial surplus of workers with requisite skills in the occupation in that area.

(4) The training or retraining course of instruction is one approved by the director and can be completed within one year.

(5) The training or retraining course is a full-time course prescribed for the primary purpose of training the applicant in skills that will allow him or her to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of any degree from a college, community college, or university.

(6) The individual can be reasonably expected to complete the training or retraining successfully.

(7) The individual has not previously participated in training approved under this chapter.

SEC. 3. It is the intent of the Legislature, if this bill and SB 2164 are both chaptered and become effective on or before January 1, 1985, both bills amend and renumber Section 1274.3 of the Unemployment Insurance Code that the amendments to Section 1274.3 proposed by both bills be given effect and incorporated in Section 1269 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and SB 2164 are both chaptered and become effective January 1, 1985, and both amend and renumber Section 1274.3, in which case Section 1 of this act shall not become operative.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1232

An act to amend Section 70141.7 of the Government Code, relating to courts.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 70141.7 of the Government Code is amended to read:

70141.7. In any county with a population exceeding 650,000 and not exceeding 700,000, as determined by the 1970 federal census, the superior court may appoint four commissioners. The superior court may provide that the commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed in Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code. The superior court may also authorize the commissioners to perform the duties of a juvenile court referee appointed pursuant to Section 553 of the Welfare and Institutions Code. Any commissioner authorized to perform the duties set forth above shall receive a salary equal to 80 percent of the salary of a judge of the superior court; provided, that upon the adoption of a resolution of the board of supervisors so providing, which takes effect on or after January 1, 1987, the salary shall be equal to 85 percent of the salary of a judge of the superior court. The salary shall be automatically increased periodically at the time and in the manner specified by Section 68203. Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1233

An act to add Section 1507.5 to the Health and Safety Code, relating to foster family homes.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1507.5 is added to the Health and Safety Code, to read:

1507.5. In-home medical care, as described in subdivision (t) of Section 14132 of the Welfare and Institutions Code, which complies with the provisions of this section may be provided to ventilator-dependent children in foster family homes. For only children described in this section, these medical services shall not be considered as a substantial component of the services provided by the licensee for the purposes of Section 1507. In order to be placed in a foster home, a ventilator-dependent child shall be receiving medical supervision and case management under the California Children's Services Program (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1) and the in-home medical care shall be provided by a licensed home health care service agency.

The State Department of Social Services and its agents shall not evaluate or have any responsibility or liability for the evaluation of the medical services described in this section.

This section only authorizes the in-home medical care described in subdivision (t) of Section 14132 of the Welfare and Institutions Code to ventilator-dependent children in foster family homes.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1234

An act to amend Section 39619.5 of, and to add Section 39619.55 to, the Education Code, relating to schools.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 39619.5 of the Education Code is amended to read:

39619.5. (a) Notwithstanding the limitations of Section 39619, the State Allocation Board may each year reserve an amount not to exceed 5 percent of the funds transferred from any source to the State School Deferred Maintenance Fund for apportionments to school districts, in instances of extreme hardship, if the district had

more than 2,500 units of average daily attendance, excluding summer session attendance, in the prior fiscal year. The apportionment shall be in addition to the apportionments made pursuant to Section 39619.

An extreme hardship shall exist in a school district when the State Allocation Board determines the existence of all of the following:

(1) That the district has deposited in its deferred maintenance fund an amount equal to at least 0.5 percent of the total general funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

(2) That the district has a critical project on its five-year plan which if not completed in one year could result in serious damage to the remainder of the facility or would result in a serious hazard to the health and safety of the pupils attending the facility.

(3) That the total funds deposited by the district and the state pursuant to Section 39619 are insufficient to complete the project.

(b) As a result of the determination made in subdivision (a), the State Allocation Board may increase the apportionment to a school district by the amount it determines necessary to complete the critical project, provided the district agrees that state apportionments pursuant to Section 39619 in future years will be reduced to offset the increased apportionment.

SEC. 2. Section 39619.55 is added to the Education Code, to read:

39619.55. (a) Notwithstanding the limitations of Section 39619, the State Allocation Board shall each year reserve 5 percent of the funds transferred from any source to the State School Deferred Maintenance Fund for apportionments to school districts in instances of extreme hardship, if the district had less than 2,501 average daily attendance, excluding summer session attendance, in the prior fiscal year. The apportionment shall be in addition to the apportionments made pursuant to Section 39619.

An extreme hardship shall exist in a school district when the State Allocation Board determines the existence of all of the following:

(1) That the district has deposited in its deferred maintenance fund an amount equal to at least 0.5 percent of the total general funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

(2) That the district has a critical project in its five-year plan which if not completed in one year could result in serious damage to the remainder of the facility or would result in a serious hazard to the health and safety of the pupils attending the facility.

(3) That the total funds deposited by the district and the state pursuant to Section 39619 are insufficient to complete the project.

(b) As a result of the determination made in subdivision (a), the State Allocation Board may do any of the following:

(1) Increase the apportionment to an eligible school district by the amount it determines necessary to complete the critical project, and require a contribution by the district.

(2) Waive repayment by the district.

(3) Reduce state apportionments pursuant to Section 39619 in future years to offset the increased apportionment, unless the board has waived repayment pursuant to paragraph (2).

CHAPTER 1235

An act to amend and repeal Sections 14010 and 14046 of, and to add and repeal Sections 14029.9, 14029.91, 14029.92, 14029.95, 14029.96, 14083.5, and 14083.6 of, the Corporations Code, relating to small business development.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Small Business Product Development Act.

SEC. 2. Section 14010 of the Corporations Code is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business development corporation created pursuant to the provisions of this part.

(b) "Financial institution" means banking organizations including national banking associations and state-chartered commercial banks and trust companies; savings and loan associations; state insurance companies; mutual insurance companies; and other banking, loaning, retirement, and insurance organizations.

(c) "Economically disadvantaged area" means the area or areas within the region of a corporation consisting of those contiguous census tracts within urbanized areas as defined by the most recent federal decennial census, in which 20 percent or more of the families were reported by the most recent federal decennial census to have an annual income of less than the poverty level established by the Bureau of the Census, or comparable areas which, because of technical factors, cannot be isolated by census tracts. The definition set forth in this subdivision shall be reviewed periodically and the board shall recommend necessary changes to the Legislature and the Governor.

(d) "Area of high youth unemployment and high youth delinquency" shall be defined by the board.

(e) "Region" means an area containing a population of not less than 500,000 and including within its boundaries one or more economically disadvantaged areas, and in which members of a corporation conduct normal business operations.

(f) Unless otherwise defined by the board, "small business" means

a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations, and including those businesses organized for agricultural purposes.

(g) "Employment incentive loan" means a loan for the purpose of attracting new business to, or expanding an existing business, which over the period of the loan will result in the new or continued employment of at least 15 persons who are either persons residing in economically disadvantaged areas or youths residing in areas of high youth unemployment and high youth delinquency.

(h) "Member" means any organization, individual, financial institution, nonprofit organization, or other business authorized to operate within this state which undertakes to make resources available to a corporation in accordance with the provisions of this chapter.

(i) "Resources" means monetary contributions, donation of consultants, personnel, facilities, equipment, loan services, and other items or services as defined by the corporation.

(j) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on every loan application pursuant to Article 7.5 (commencing with Section 14066).

(k) "Membership agreement" means an agreement between a corporation and any individual, financial institution, nonprofit organization, or other business under which agreement such individual, financial institution, nonprofit organization, or other business agrees to make available or contribute resources to the corporation in accordance with the provisions of Article 8 (commencing with Section 14075).

(*l*) "Board of directors" means the board of directors of the corporation.

(m) "OSBD" means the Office of Small Business Development.

(n) "Board" means the Small Business Development Board.

(o) "Department" means the Department of Economic and Business Development.

(p) "Executive director" means the Executive Director of the Office of Small Business Development.

(q) "UDC" means an urban development corporation.

(r) "RDC" means a rural development corporation.

(s) "Director" means the Director of the Department of Economic and Business Development.

(t) "Financial aid" means the infusion of risk capital to small businesses for use in the development and exploitation of specific inventions and products.

(u) "Invention" means any new process or new technique without regard to whether a patent has or could be granted.

(v) "Product" means any product, device, technique, or process, which is or may be exploitable commercially. That term shall not refer to pure research but shall be construed to apply to the products,

devices, techniques, or processes which have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice.

(w) "Venture" means, without limitation, any contractual arrangement with any person whereby the corporation obtains rights from or in an invention or product or proceeds therefrom in exchange for granting of financial aid to that person.

SEC. 3. Section 14029.9 is added to the Corporations Code, to read:

14029.9. The office, in its discretion and after the approval of the small business development board, may establish a program through which urban and rural small business development corporations may assist California small businesses by making available financial aid for the development phase of a definable product or process which is new to the business undertaking the development. Projects approved by a corporation shall be eligible for reimbursement on a regular basis up to 60 percent of allowable, documented expenses. Projects approved and the amount invested shall be based upon an analysis of the business plan submitted by the company. Evaluation criteria shall include product feasibility, company ability, marketing availability, job creation, and overall financial condition. Products need not be high technology but should be innovative.

In accordance with subdivision (h) of Section 14023.5, the executive director may appoint a technology marketing advisory committee to review product development applications being considered for funding by UDCs and RDCs. The advisory committee shall include, among others, a product development specialist, a marketing specialist and a venture capitalist.

SEC. 3.5. Section 14029.91 is added to the Corportions Code, to read:

14029.91. In accordance with subdivision (a) of Section 14023.5, the executive director may provide technical assistance and staff support for the technology marketing advisory committee created pursuant to Section 14029.9 and to the UDCs and RDCs implementing that section.

SEC. 3.7. Section 14029.92 is added to the Corporations Code, to read:

14029.92. The office may propose and the board may adopt regulations and investment guidelines including a definition of allowable expenses for the product development program established by Section 14029.9.

SEC. 4. Section 14029.95 is added to the Corporations Code, to read:

14029.95. If the office establishes the program authorized by Section 14029.9, return on investments authorized by Section 14029.9 for the corporations shall be derived from a royalty based on the sale of the product developed. The royalty shall not exceed 5 percent of the new product sales unless approval is granted by the Executive Director of the Office of Small Business Development after

notification of the Small Business Development Board of Directors. The royalty payment shall continue until a specified multiple of the corporation's investment has been returned within a specified period of time. After the required multiple has been reached, the royalty rate may be reduced and continued for a fixed time period.

SEC. 5. Section 14029.96 is added to the Corporations Code, to read:

14029.96. If the office establishes the program authorized by Section 14029.9, the corporations shall charge an application fee for assistance for product development of up to 1.5 percent of the amount requested or a minimal fee of one hundred dollars ($100).

SEC. 6. Section 14046 of the Corporations Code is amended to read:

14046. (a) Except as provided in subdivision (d) of Section 14131, Section 14083, and Section 14083.5, the purpose of a regional small business development corporation loan guarantee fund shall be to guarantee loans, approved by the regional corporation, which meet the California Small Business Development Corporation Law loan criteria established by the board, policies of the corporation, and provisions of Article 7.5 (commencing with Section 14066) of this chapter. The state shall not be liable or obligated in any way as a result of the allocation of state money to a regional small business development corporation loan guarantee fund beyond the state money which is allocated and deposited in the fund pursuant to this chapter, and which is not otherwise withdrawn by the state pursuant to this chapter.

(b) A summary of all loans to which a state guarantee is attached shall be submitted to the executive director upon completion of the loan agreement.

SEC. 7. Section 14083.5 is added to the Corporations Code, to read:

14083.5. If the office establishes the program authorized by Section 14029.9, the corporations are authorized to use up to one-tenth of the amount within their regional small business development corporation loan guarantee fund to make investments in California small businesses for product development as specified in Sections 14029.9 and 14029.95. The investments in each business shall not exceed the amount of the current loan guarantee limits established by regulation.

SEC. 8. Section 14083.6 is added to the Corporations Code, to read:

14083.6. If the office establishes the program authorized by Section 14029.9, revenues derived from royalties on product investments shall be returned to the investing corporation's regional small business development corporation loan fund.

SEC. 9. The Small Business Development Board shall report to the Legislature on the program authorized by this act by December 31, 1986. The report shall contain information on whether the program has been implemented, the reasons therefor, and if it has

been implemented, on the investments which have been made in accordance with this act and their success. The report shall also make recommendations on the extension of the program.

SEC. 10. This act shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 14010 of the Corporations Code, as added by Section 6 of Chapter 770 of the Statutes of 1983, and Section 14046 of the Corporations Code, as amended by Section 14 of Chapter 875 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1236

An act to amend Sections 1379 and 1381 of, and to add Section 1379.5 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1379 of the Unemployment Insurance Code is amended to read:

1379. The director, subject to the provisions of this article, may do any or all of the following in the recovery of overpayments of unemployment compensation benefits:

(a) File a civil action against the liable person for the recovery of the amount of the overpayment within one year after any of the following:

(1) The mailing or personal service of the notice of overpayment determination if the person affected does not file an appeal to an administrative law judge.

(2) The mailing of the decision of the administrative law judge if the person affected does not initiate a further appeal to the appeals board.

(3) The date of the decision of the appeals board.

(b) Initiate proceedings for a summary judgment against the liable person. However, this subdivision applies only where the director has found, pursuant to Section 1375, that the overpayment may not be waived because it was due to fraud, misrepresentation, or willful nondisclosure on the part of the recipient. The director may, not later than one year after the overpayment became final, file with the county clerk of the county from which the overpayment of benefits was paid, a certificate containing all of the following:

(1) The amount due, including the assessment made under Section 1375.1, plus interest from the date that the initial determination of overpayment was made pursuant to Section 1376.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of such certificate.

(3) A request that judgment be entered against the liable person in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the liable person in the amount set forth in the certificate.

For the purposes of this subdivision only, an overpayment is final and due and payable after any of the following:

(A) The liable person has not filed an appeal pursuant to Section 1377.

(B) The liable person has filed an appeal to the administrative law judge and a decision of an administrative law judge has become final.

(C) The liable person has filed an appeal to the appeals board and the decision of the appeals board has become final because the liable person has not sought judicial review within the six-month period provided by Section 410.

(c) Offset the amount of the overpayment received by the liable person against any amount of benefits to which he or she may become entitled under this division within six years of the date of the mailing or personal service of the notice of overpayment determination.

SEC. 2. Section 1379.5 is added to the Unemployment Insurance Code, to read:

1379.5. An abstract of judgment obtained pursuant to subdivision (a) or (b) of Section 1379, or a copy thereof, may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien against all real or personal property of the liable person in that county owned by the liable person at the time, or which the liable person may afterwards, but before the lien expires, acquire. The lien shall have the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivision (a) or (b) of Section 1379, unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner provided in this section, be extended by recording a new abstract in the office of the county recorder of any county. From the date of such recording, the lien shall be extended for 10 years unless sooner released or otherwise discharged.

Execution shall issue upon such a judgment upon request of the director in the same manner as execution may issue upon other judgments. Sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section,

the director or his or her authorized agents may act on behalf of the state.

SEC. 3. Section 1381 of the Unemployment Insurance Code is amended to read:

1381. The director shall enforce collection of any judgment obtained by the director under subdivision (a) or (b) of Section 1379. Amounts collected under this section shall be deposited in the fund from which the overpayment was made, except that the amounts collected to offset the costs of collections shall be deposited in the Unemployment Administration Fund and the amounts collected pursuant to Section 1375.1 shall be deposited in the Benefit Audit Fund.

CHAPTER 1237

An act to add and repeal Sections 480.3 and 480.4 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 480.3 is added to the Revenue and Taxation Code, to read:

480.3. (a) Each county assessor and recorder shall make available, without charge and upon request, a form entitled "Preliminary Change of Ownership Report," which transferees of real property may complete and file with the recorder concurrent with the recordation of any document effecting a change of ownership.

(b) If a document evidencing a change of ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change of ownership report, the recorder may charge an additional recording fee of twenty dollars ($20). The additional fee shall not be charged if the document is accompanied by an affidavit that the transferee is not a resident of California.

(c) Noncompliance with this section by the transferee shall not delay or preclude the recordation of documents if the additional fee specified in subdivision (b) is tendered.

(d) The authority to obtain information pursuant to this section is in addition to, and not in lieu of, any existing authority the assessor has under this article.

(e) This section shall apply to changes of ownership occurring on or after July 1, 1985.

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. Section 480.4 is added to the Revenue and Taxation Code, to read:

480.4. (a) The preliminary change of ownership report referred to in Section 480.3 shall be in substantially the following form:

PRELIMINARY CHANGE OF OWNERSHIP REPORT

(To be completed by transferee (buyer) prior to transfer of subject property in accordance with Section 480.3 of the Revenue & Taxation Code.)

FOR RECORDER: Recorded Book , Page , Date Document No.

SELLER:
BUYER:
A.P. #(s):
LEGAL DESCRIPTION:
ADDRESS (if improved):
MAIL TAX INFORMATION TO: Name: _____
Address: _____

FOR ASSESSOR'S USE ONLY:

The property which you acquired may be subject to a supplemental tax assessment in an amount to be determined by the (name of county) County Assessor. For further information on your supplemental roll tax obligation, please call the (name of county) County Assessor at (phone number).

1. Transfer Information:
   A. Was this transfer solely between husband & wife, addition of a spouse, death of a spouse, divorce settlement, etc.? a.( )YES b.( )NO
   B. Was this transaction only a correction of the name(s) of the person(s) holding title to the property? a.( )YES b.( )NO
   C. Was this document recorded to create, terminate, or reconvey a lender's interest in the property? a.( )YES b.( )NO
   D. Was this document recorded to substitute a trustee under a deed of trust, mortgage, or other similar document? a.( )YES b.( )NO
   E. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants? a.( )YES b.( )NO
   F. Return of property to person who created the joint tenancy? a.( )YES b.( )NO
   G. Is this transfer of property:
      a. to a trust for the benefit of the grantor? a.( )YES b.( )NO
      b. to a revocable trust? a.( )YES b.( )NO
      c. to a trust from which the property reverts to the grantor within 12 years? a.( )YES b.( )NO
   H. If this property is the subject of a lease, is the lease for a term of less than 35 years including written options? a.( )YES b.( )NO
   I. If the conveying document constitutes an exclusion from a change in ownership as defined in Section 62 of the Revenue & Taxation Code for any reason other than those listed above, set forth the specific exclusion claimed _____

* IF YOU HAVE ANSWERED "NO" TO QUESTIONS A THROUGH H, INCLUSIVE, AND HAVE NOT CLAIMED ANY OTHER EXCLUSIONS UNDER I, PLEASE COMPLETE BALANCE OF FORM. OTHERWISE SIGN AND DATE.

Preliminary Change of Ownership Report Page Two

2. Type of property transferred:
   a. ( ) Single-family residence
   b ( ) Multiple-family residence (no. of units: ___)
   c. ( ) Co-op
   d. ( ) Condo
   e. ( ) Mobilehome
   f. ( ) Unimproved lot
   g. ( ) Commercial/Industrial
   h. ( ) Other (description: _____)
3. Intended as principal residence? a.( )YES b.( )NO
4. Transfer is by:
   a ( ) Deed; b. ( ) Contract of sale;
   c. ( ) Other—explain: _____
5. Is less than 100% of property being transferred? a.( )YES b.( )NO
6 a. ( ) Date of transfer or; b. ( ) If an inheritance, date of death _____
7 Is, or will, the property produce(ing) income? a.( )YES b.( )NO
8. If answer to Question 4 is yes, is income pursuant to:
   a. ( ) Lease; b. ( ) Contract; c. ( ) Mineral rights;
   d. ( ) Other—explain: _____
9. Did the transfer of this property involve the trade or exchange of other real property? a.( )YES b.( )NO
10 a. Total Purchase Price or Acquisition Price, If Exchanged: $ _____
   b. Cash Downpayment or Value of Trade (excluding closing costs): $ _____
   c 1st Deed of Trust $ _____
   at _____ % interest for _____ years.
   New Loan ( ); Assumed Existing Loan Balance ( ); FHA ( ); Cal-Vet ( ); VA ( ); Bank ( ); Finance Co. ( ); Savings & Loan ( ); Loan Carried By Seller ( ); All Inclusive ( ); Balloon Payment: Yes( ) No( ).
   d. 2nd Deed of Trust $ _____
   at _____ % interest for _____ years.
   New Loan ( ); Assumed Existing Loan Balance ( ); Loan Carried By Seller ( ); Balloon Payment. Yes ( ) No ( ).
   e. Was other type of financing involved not covered in (c) or (d), above? a.( )YES b.( )NO
   f Improvement Bond: Yes ( ) No ( ); Outstanding Balance $ _____
11. Was any personal property involved in purchase other than a mobilehome on real property? a.( )YES b.( )NO c.AMOUNT _____

I certify that the foregoing is true, correct, and complete to the best of my knowledge and belief.

Signed _____ Date. _____
(New Owner/Corporate Officer)

Address if other than above _____

Phone No. Where You Are Available From 8:00 am–5:00 pm: ( ) _____

(NOTE: The Assessor may contact you for further information.)

(b) The State Board of Equalization may revise the preliminary change of ownership report, as necessary, for the purpose of maintaining statewide uniformity in the contents of the report.

(c) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 3. It is the intent of the Legislature, in enacting Sections 1 and 2 of this act, to establish an additional aid to each assessor in expediting compliance with Section 75.10 of the Revenue and Taxation Code with respect to real property which changes ownership, thereby improving cash flows and increasing revenues for local governments and providing the assessor with timely information which is needed to ascertain if a change of ownership of real property has occurred and, if so, to determine the full cash value of that property on the date of the change in ownership.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1238

An act to amend Section 51018 of, and to add Section 51014.6 to, the Government Code, relating to pipelines.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 51014.6 is added to the Government Code, to read:

51014.6. (a) No person, other than the pipeline operator, shall do any of the following with respect to any pipeline easement, the pipeline of which is placed in service on or after January 1, 1986:

(1) Build, erect, or create a structure or improvement within the pipeline easement or permit the building, erection, or creation thereof.

(2) Build, erect, or create a structure, fence, wall, or obstruction adjacent to any pipeline easement which would prevent complete and unimpaired surface access to the easement, or permit the building, erection, or creation thereof.

(b) No shrubbery or shielding shall be installed on the pipeline easement which would impair aerial observation of the pipeline easement. This subdivision does not prevent the revegetation of any landscape disturbed within a pipeline easement as a result of

constructing the pipeline and does not prevent the holder of the underlying fee interest or the holder's tenant from planting and harvesting seasonal agricultural crops on a pipeline easement.

(c) This section does not prohibit a pipeline operator from performing any necessary activities within a pipeline easement, including, but not limited to, the construction, replacement, relocation, repair, or operation of the pipeline.

SEC. 2. Section 51018 of the Government Code is amended to read:

51018. Every break, explosion, or fire involving a pipeline, including a pipeline otherwise exempted by paragraphs (1) to (6), inclusive, of subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported to the State Fire Marshal and the local agency or fire department having jurisdiction.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1239

An act to amend the heading of Title 7.42 (commencing with Section 66905) of, to amend Sections 831.5, 66905.2, 66905.6, 66905.7, and 66906.7 of, to amend and renumber Sections 66905.8, 66905.9, 66906, 66906.2, 66906.3, and 66906.4 of, to add Sections 66905.8, 66905.9, 66905.10, 66906.8, and 66906.9 to, to add Chapter 6 (commencing with Section 66908) to Title 7.42 of, to add and repeal Chapter 7 (commencing with Section 66909) of Title 7.42 of, to repeal and add Chapter 5 (commencing with Section 66907) of Title 7.42 of, to repeal Chapter 6 (commencing with Section 66907.5) of Title 7.42 of, and to repeal Section 66906.1 of, the Government Code, relating to the California Tahoe Conservancy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 831.5 of the Government Code is amended to read:

831.5. (a) The Legislature declares that innovative public access programs, such as agreements with public land trusts, can provide

effective and responsible alternatives to costly public acquisition programs. The Legislature therefore declares that it is beneficial to the people of this state to encourage private nonprofit entities such as public land trusts to carry out programs that preserve open space or increase opportunities for the public to enjoy access to and use of natural resources if the programs are consistent (1) with public safety, (2) with the protection of the resources, and (3) with public and private rights.

(b) For the purposes of Sections 831.2, 831.4, and 831.7, "public entity" includes a public land trust which meets all of the following:

(1) Is a nonprofit organization existing under the provisions of Section 501(c) of the United States Internal Revenue Code.

(2) Has specifically set forth in its articles of incorporation, as among its principal charitable purposes, the conservation of land for public access, agricultural, scientific, historical, educational, recreational, scenic, or open space opportunities.

(3) Has entered into an agreement with the State Coastal Conservancy for lands located within the coastal zone, as defined in Section 31006 of the Public Resources Code, with the California Tahoe Conservancy or its designee for lands located within the Lake Tahoe region, as defined in subdivision (c) of Section 66953 of the Government Code, or with the State Public Works Board or its designee for lands not located within the coastal zone or the Lake Tahoe region, on such terms and conditions as are mutually agreeable, requiring the public land trust to hold the lands or, where appropriate, to provide nondiscriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both. The conservancy or the board, as appropriate, shall periodically review the agreement and determine whether the public land trust is in compliance with the terms and conditions. In the event the conservancy or the board determines that the public land trust is not in substantial compliance with the agreement, the conservancy or the board shall cancel the agreement, and the provisions of Sections 831.2, 831.4, and 831.7 shall no longer apply with regard to that public land trust.

(c) For the purposes of Sections 831.2, 831.4, and 831.7, "public employee" includes an officer, authorized agent, or employee of any public land trust which is a public entity.

SEC. 1.5. The heading of Title 7.42 (commencing with Section 66905) of the Government Code is amended to read:

TITLE 7.42. CALIFORNIA TAHOE CONSERVANCY

SEC. 2. Section 66905.2 of the Government Code is amended to read:

66905.2. It is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to preserve the scenic beauty and recreational opportunities of the region; and it is recognized that for

the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established a governmental agency with power to acquire and hold property in the Tahoe region.

SEC. 3. Section 66905.6 of the Government Code is amended to read:

66905.6. "Conservancy" means the California Tahoe Conservancy.

SEC. 4. Section 66905.7 of the Government Code is amended to read:

66905.7. "Governing body" means the governing board of the California Tahoe Conservancy.

SEC. 5. Section 66905.8 of the Government Code is amended and renumbered to read:

66906. There is created the California Tahoe Conservancy as a state agency within the Resources Agency. The conservancy is a successor agency to the California Tahoe Conservancy Agency which had similar powers and duties, but which did not function as an operating agency.

SEC. 6. Section 66905.8 is added to the Government Code, to read:

66905.8. "Local public agency" means a city, county, district, or joint powers agency.

SEC. 7. Section 66905.9 of the Government Code is amended and renumbered to read:

66906.1. The governing body of the conservancy shall be comprised of seven voting members and one ex officio nonvoting member. The voting members shall be as follows:

(a) One member appointed by the City Council of the City of South Lake Tahoe.

(b) One member appointed by the Board of Supervisors of the County of Placer.

(c) One member appointed by the Board of Supervisors of the County of El Dorado.

(d) The Secretary of the Resources Agency or his or her designee.

(e) One member appointed from the general public by the Senate Committee on Rules.

(f) One member appointed from the general public by the Speaker of the Assembly.

(g) The Director of Finance or the director's designee.

The members appointed or designated pursuant to subdivisions (d) to (g), inclusive, shall not be residents of the region.

The members of the governing body of the conservancy shall serve at the pleasure of the respective appointing authority.

A representative of the United States Secretary of Agriculture shall be an ex officio, nonvoting member of the conservancy.

SEC. 8. Section 66905.9 is added to the Government Code, to read:

66905.9. "Nonprofit organization" means any private, nonprofit

organization which qualifies for exempt status under Section 501(c)(3) of the United States Internal Revenue Code of 1954, and has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities.

SEC. 9. Section 66905.10 is added to the Government Code, to read:

66905.10. "Fund" means the Tahoe Conservancy Fund.

SEC. 9.5. Section 66906 of the Government Code is amended and renumbered to read:

66906.2. The members of the conservancy shall serve without compensation, but the members shall be reimbursed the actual amounts of the reasonable and necessary expenditures incurred in attending meetings of the conservancy and carrying out the duties of their office.

SEC. 10. Section 66906.1 of the Government Code is repealed.

SEC. 11. Section 66906.2 of the Government Code is amended and renumbered to read:

66906.3. The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be two years, and who shall be subject to reelections, except that a new chairman or vice chairman may be elected by the governing body before the expiration of the two-year term for the fulfillment of that two-year term.

SEC. 12. Section 66906.3 of the Government Code is amended and renumbered to read:

66906.4. A majority of the total voting membership of the governing body shall constitute a quorum for the transaction of the business of the conservancy. A majority vote of the members present at a meeting, but not less than a quorum, shall be binding on all matters, except a request to the State Public Works Board to exercise the power of eminent domain pursuant to Section 66907.5 which shall require five affirmative votes. The governing body shall adopt its own rules, regulations, and procedures.

The limitations on voting by designees of voting members in Section 7.5 shall not apply to this title.

SEC. 13. Section 66906.4 of the Government Code is amended and renumbered to read:

66906.5. The conservancy shall establish and maintain an office within the region. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations.

SEC. 14. Section 66906.7 of the Government Code is amended to read:

66906.7. The conservancy's expenses may be paid out of any conservancy funds including those acquired by gift or donation and from any money received from rents or leases of conservancy property. However, the expenditure of the conservancy for staff services shall not exceed 10 percent of the amount received from

these sources.

SEC. 15. Section 66906.8 is added to the Government Code, to read:

66906.8. The conservancy may select and hire private consultants or contractors to provide services necessary to achieve the purposes of this title.

SEC. 16. Section 66906.9 is added to the Government Code, to read:

66906.9. The Tahoe Conservancy Fund is hereby created. Any moneys in the fund shall be available for the purposes of this title when appropriated by the Legislature.

SEC. 16.5. Chapter 5 (commencing with Section 66907) of Title 7.42 of the Government Code is repealed.

SEC. 17. Chapter 5 (commencing with Section 66907) is added to Title 7.42 of the Government Code, to read:

CHAPTER 5. CONSERVANCY'S POWERS

66907. The conservancy may select and acquire real property or interests therein in the name of and on behalf of the state, for the purposes of protecting the natural environment, providing public access or public recreational facilities, preserving wildlife habitat areas, or providing access to or management of acquired lands. The conservancy is hereby designated as the principal agency responsible for acquiring real property pursuant to Title 7.43 (commencing with Section 66950).

66907.1. (a) The conservancy may acquire interests in land by means of land exchanges and is authorized to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback agreements. Land acquisition policy shall be set by the conservancy by resolution and the establishment of the policy is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(b) The conservancy may appoint advisory bodies on land acquisition as it deems advisable.

66907.2. The conservancy is authorized to accept and hold real property or any interest therein acquired through gift, exchange, donation, or dedication.

66907.3. The conservancy may designate or enter into an agreement with any public agency to provide real estate services and assign authority to execute agreements for the acquisition or disposal of real property or interests therein.

66907.4. (a) Acquisition of real property or interests therein under this title, when the value is in excess of two hundred fifty thousand dollars ($250,000) per lot or parcel, is subject to provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2).

(b) Except as set forth in subdivision (a), acquisition of real

property or interests under this title is not subject to the Property Acquisition Law. However, the conservancy may request the Public Works Board to review and approve specific acquisitions.

66907.5. The conservancy may request the State Public Works Board to exercise the power of eminent domain pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2), if the requirements of Section 66906.4 are met and the conservancy finds that all reasonable efforts to acquire the property have failed and that the action is necessary to remove an impediment to an otherwise voluntary acquisition or is needed to achieve the purposes of other related acquisitions.

66907.6. Notwithstanding any other provisions of law, the conservancy may enter into an option to purchase lands in fee or lesser interest.

66907.7. (a) The conservancy may award grants to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this title.

(b) Grants to nonprofit organizations for the acquisition of real property or interests therein shall be subject to all of the following conditions:

(1) The purchase price of any interest in land acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the conservancy.

(2) The conservancy approves the terms under which the interest in land is acquired.

(3) The interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt to be incurred by the nonprofit organization unless the conservancy approves the transaction.

(4) The transfer of land acquired pursuant to a grant shall be subject to the approval of the conservancy and a new agreement sufficient to protect the interest of the people of California shall be entered into with the transferee.

(5) If any essential term or condition of the grant is violated, title to all interest in real property acquired with state funds shall immediately vest in the state.

(6) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state unless another appropriate public agency or nonprofit organization is identified by the conservancy and agrees to accept title to all interests in real property.

Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the reversionary interest of the state.

66907.8. Notwithstanding any other provisions of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest thereon, or option acquired under this

title to local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, or corporate entities for management purposes pursuant to terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

66907.9. The conservancy is hereby empowered to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with natural or corporate persons, the state, the local public agencies, or the federal government, and to enter into any other agreements authorized by state or federal law.

66907.10. The conservancy may improve and develop acquired lands for the purpose of protecting the natural environment or otherwise meeting the objectives of this title. The conservancy may not develop and may not enter into any contract or agreement which would result in the development of any land under its ownership or control, except in conformance with a basinwide management plan.

66907.11. The conservancy may merge or split acquired lots, adjust boundary lines, or take similar actions needed to facilitate the acquisition and management of lands.

SEC. 18. Chapter 6 (commencing with Section 66907.5) of Title 7.42 of the Government Code is repealed.

SEC. 19. Chapter 6 (commencing with Section 66908) is added to Title 7.42 of the Government Code, to read:

CHAPTER 6. FINANCES

66908. The conservancy may receive gifts, donations, subventions, grants, rents, royalties, and other financial aids and funds from private and public sources.

66908.1. The conservancy may fix and collect fees for any services rendered by it. The amount of any fee may not exceed the reasonable costs of providing the services rendered by the conservancy.

66908.2. Proceeds from any lease, rental, sale, exchange, transfer of land, interest therein, or option thereon, or income shall be deposited in the fund and shall be available for expenditure for the purposes of this title when appropriated by the Legislature.

66908.3. The conservancy is authorized to lease lands acquired in accordance with Section 66907.8. When the leases are made to private individuals or groups, the conservancy shall annually, upon appropriation of these amounts by the Legislature, transfer 25 percent of the gross income of the leases to the county in which the lands are located. Fifty percent of the funds received by a county under this section shall be used for soil erosion control projects.

SEC. 20. Chapter 7 (commencing with Section 66909) is added to Title 7.42 of the Government Code, to read:

CHAPTER 7. TORT IMMUNITIES

66909. The immunity conferred pursuant to Section 831.2 for unimproved public property applies to real property acquired under this title which is located within a partially improved subdivision and has no improvements other than streets, utility connections, utility poles, electric transmission lines, gutters, or similar infrastructure existing at the time of acquisition which serve the subdivision in whole or in part. This section does not limit liability which would otherwise exist for any injuries or damages proximately caused by any improvement.

66909.1. The provisions of this chapter are in addition to all other tort immunities conferred pursuant to other provisions of law.

66909.2. (a) The Legislature finds and declares that accomplishment of the goals and objectives of the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950)) depends upon prompt and efficient acquisition of property within the Lake Tahoe region.

(b) The Legislature further finds and declares that the conservancy is a unique entity, that some lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act (Title 7.43 (commencing with Section 66950)), though not wholly unimproved, are equivalent in character and uses to unimproved public lands coming within the purview of Section 831.2, and that, for the above reasons, the immunity provisions of Section 831.2 should be extended to provide an immunity from liability for injuries resulting from a natural condition of certain partially improved lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act.

(c) It is the intent of the Legislature that the extension of Section 831.2 pursuant to this chapter apply only to lands acquired in furtherance of the goals and objectives of the Lake Tahoe Acquisitions Bond Act and that this chapter does not affect the construction of Section 831.2, or justify a provision similar to this chapter, with respect to any other public property.

66909.3. Except as provided in Section 831.5, nothing in this chapter extends tort immunities provided public entities to any private individual or entity.

66909.4. Nothing in this chapter creates a duty of care or basis of liability for damage or injury to property or persons.

66909.5. This chapter shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends that date.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate changes which will allow the immediate

acquisition and purchase of lands pursuant to the Lake Tahoe Acquisitions Bond Act, it is necessary that this act take effect immediately.

CHAPTER 1240

An act to repeal and add Chapter 1.5 (commencing with Section 2050) of, and to repeal Article 4 (commencing with Section 2090) of, Division 3 of the Fish and Game Code, and to add Section 21104.2 to the Public Resources Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code, as added by Chapter 1510 of the Statutes of 1970, is repealed.

SEC. 2. Chapter 1.5 (commencing with Section 2050) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 1.5. ENDANGERED SPECIES

Article 1. General Provisions

2050. This chapter shall be known and may be cited as the California Endangered Species Act.

2051. The Legislature hereby finds and declares all of the following:

(a) Certain species of fish, wildlife, and plants have been rendered extinct as a consequence of man's activities, untempered by adequate concern and conservation.

(b) Other species of fish, wildlife, and plants are in danger of, or threatened with, extinction because their habitats are threatened with destruction, adverse modification, or severe curtailment, or because of overexploitation, disease, predation, or other factors.

(c) These species of fish, wildlife, and plants are of ecological, educational, historical, recreational, esthetic, economic, and scientific value to the people of this state, and the conservation, protection, and enhancement of these species and their habitat is of statewide concern.

2052. The Legislature further finds and declares that it is the policy of the state to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat and that it is the intent of the Legislature, consistent with conserving the species, to acquire lands for habitat for these species.

2053. The Legislature further finds and declares that it is the policy of the state that state agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy.

Furthermore, it is the policy of this state and the intent of the Legislature that reasonable and prudent alternatives shall be developed by the department, together with the project proponent and the state lead agency, consistent with conserving the species, while at the same time maintaining the project purpose to the greatest extent possible.

2054. The Legislature further finds and declares that, in the event specific economic, social, or other conditions make infeasible such alternatives, individual projects may be approved if appropriate mitigation and enhancement measures are provided.

2055. The Legislature further finds and declares that it is the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall utilize their authority in furtherance of the purposes of this chapter.

2056. The Legislature further finds and declares that the cooperation of the owners of land which is identified as habitat for endangered species and threatened species is essential for the conservation of those species and that it is the policy of this state to foster and encourage such cooperation in furtherance of the purposes of this chapter.

2060. The definitions in this article govern the construction of this chapter.

2061. "Conserve," "conserving," and "conservation" mean to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary. These methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, restoration and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

2062. "Endangered species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. Any species determined by the commission as "endangered" on or before January 1, 1985, is an "endangered

species."

2063. "Feasible" means feasible as defined in Section 21061.1 of the Public Resources Code.

2064. "Project" means project as defined in Section 21065 of the Public Resources Code.

2065. "State lead agency" means the state agency, board, or commission which is a lead agency under the California Environmental Quality Act (Division 13 (commencing with Sec. 21000) of the Public Resources Code).

2067. "Threatened species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. Any animal determined by the commission as "rare" on or before January 1, 1985, is a "threatened species."

2068. "Candidate species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that the commission has formally noticed as being under review by the department for addition to either the list of endangered species or the list of threatened species, or a species for which the commission has published a notice of proposed regulation to add the species to either list.

Article 2. Listing of Endangered Species

2070. The commission shall establish a list of endangered species and a list of threatened species. The commission shall add or remove species from either list if it finds, upon the receipt of sufficient scientific information pursuant to this article, that the action is warranted.

Article 3. Taking, Importation, or Sale

2080. No person shall import into this state, export out of this state, or take, possess, purchase, or sell within this state, any species, or any part or product thereof, that the commission determines to be an endangered species or a threatened species, or attempt any of those acts, except as otherwise provided in this chapter, the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of this code), or in the California Desert Native Plants Act (Division 23 (commencing with Section 70500) of the Food and Agricultural Code).

2081. Through permits or memorandums of understanding, the department may authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions, to import, export, take, or possess any endangered species, threatened species, or candidate species for scientific, educational, or management purposes.

2082. This chapter does not prohibit the sale of any endangered species or threatened species, or any part or product thereof, when the owner can demonstrate that the species, or part or product thereof, was in the person's possession before the date upon which the commission listed the species as an endangered species or threatened species or as an endangered animal or rare animal prior to January 1, 1985, and shall not prohibit the sale of that part or product by an individual not normally engaged in that sale if it was originally possessed by the seller for the seller's own use and so used by that seller. However, it shall be unlawful to sell any species, or part or product thereof, if that sale would have been unlawful prior to the date upon which the commission added the species to the listing of endangered species or threatened species or to the listing of endangered animals or rare animals prior to January 1, 1985.

2083. This chapter does not apply to the taking of fish otherwise authorized pursuant to Part 3 (commencing with Section 7600) of Division 6 or to the possession of individual animals which were lawfully possessed before the commission listed the species as an endangered species or as a threatened species or as an endangered animal or rare animal prior to January 1, 1985.

2084. The commission may authorize, subject to terms and conditions it prescribes, the taking of any candidate species, or the taking of any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species.

Article 4. State Agency Consultation

2090. Whenever the department consults with a state lead agency pursuant to Section 21080.3, 21080.4, 21080.5, or 21104.2 of the Public Resources Code, the department shall issue a written finding based on its determination of whether a proposed project would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of the species. The written finding shall also include the department's determination of whether a proposed project would result in any taking of an endangered species or a threatened species incidental to the proposed project. The department shall base its determination on the best existing scientific information.

2091. If jeopardy is found, the department shall determine and specify to the state lead agency reasonable and prudent alternatives consistent with conserving the species which would prevent jeopardy to the continued existence of the species or the destruction or adverse modification of the habitat essential to the continued existence of the species. With respect to plants, the alternatives shall be consistent with the provisions of the Native Plant Protection Act (Chapter 10 (commencing with Section 1900)). If a taking incidental to the project is found, the department shall determine and specify to the state lead agency reasonable and prudent measures that are

necessary and appropriate to minimize the adverse impacts of the incidental taking.

Any taking that is in compliance with the alternatives or measures specified under this subdivision is not prohibited by this chapter.

2092. (a) Notwithstanding Section 21081 of the Public Resources Code, if, after consulting with the department pursuant to Section 2090, jeopardy is found, the state lead agency shall require reasonable and prudent alternatives consistent with conserving the species which would prevent jeopardy.

(b) If specific economic, social, or other conditions make infeasible the alternatives prescribed in subdivision (a), except as provided in subdivision (c), the state lead agency may approve a project when jeopardy is found, if both of the following conditions are met:

(1) The state lead agency requires reasonable mitigation and enhancement measures as are necessary and appropriate to minimize the adverse impacts of the project upon the endangered species or threatened species, or habitat essential to the continued existence of the species, including, but not limited to, live propagation, transplantation, and habitat acquisition, restoration, and improvement.

(2) The state lead agency finds all of the following:

(A) The benefits of the project as proposed clearly outweigh the benefits of the project were it to be carried out with the reasonable and prudent alternatives consistent with conserving the species which would prevent jeopardy.

(B) An irreversible or irretrievable commitment made after initiation of consultation required pursuant to Section 2090, of resources to the project, which has the effect of foreclosing the opportunity for formulating and implementing reasonable and prudent alternatives consistent with conserving the species which prevent jeopardy, has not been made.

(c) A state lead agency shall not approve a project which would likely result in the extinction of any endangered species or threatened species. The state lead agency shall base its determination on the best existing scientific information.

2093. In order to encourage resolution of potential conflicts as early as possible, the department shall, through guidelines, provide a mechanism for informal consultation prior to a determination pursuant to Section 21080.1 of the Public Resources Code.

2094. At the request of a project applicant, the applicant shall be afforded the opportunity to participate fully in the consultation under this article.

2095. If a project may affect species that are listed as threatened or endangered under both this chapter and the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), and if the project is subject to state lead agency actions pursuant to the provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and actions of a

federal agency action pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), the department shall participate to the greatest extent practicable in the federal consultation.

The Legislature encourages cooperative and simultaneous consultation by every state lead agency in order to develop a coordinated federal Biological Opinion that reflects consistent and compatible findings between state and federal agencies. Whenever possible, the department, consistent with this act, shall adopt a federal Biological Opinion as the written findings required pursuant to Section 2090.

Whenever the department has reason to believe that a project may affect species that are listed as threatened and endangered under both this chapter and the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), and if the project is subject to state lead agency actions pursuant to the provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000 of the Public Resources Code) and actions of a federal agency action pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531, et seq.), the department shall request the United States Department of the Interior, Fish and Wildlife Service or the National Marine Fisheries Service, whichever is appropriate, to initiate consultation pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

2097. This article shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1987, deletes or extends that date.

Article 5. Funding

2098. The department shall pay the costs of administration of this chapter from the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

SEC. 3. Section 21104.2 is added to the Public Resources Code, to read:

21104.2. The state lead agency shall consult with, and obtain written findings from, the Department of Fish and Game in preparing an environmental impact report on a project, as to the impact of the project on the continued existence of any endangered species or threatened species pursuant to Article 4 (commencing with Section 2090) of Chapter 1.5 of Division 3 of the Fish and Game Code.

SEC. 4. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or

eliminates a crime or infraction.

SEC. 5. It is the intent of the Legislature, if this bill and AB 3270 are both chaptered and become effective January 1, 1985, and this bill is chaptered after AB 3270, that the provisions of Chapter 1.5 (commencing with Section 2050), as added to Division 3 of the Fish and Game Code by this bill and Chapter 1.5 (commencing with Section 2060), as added to Division 3 of the Fish and Game Code by AB 3270, form a single, unified California Endangered Species Act (Chapter 1.5 (commencing with Section 2050), Division 3, Fish and Game Code).

Therefore, if both this bill and AB 3270 are chaptered and this bill is chaptered last, this bill does not prevail over AB 3270 and the provisions of both bills shall become operative in a single, unified Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

CHAPTER 1241

An act to add Section 322 to the Public Utilities Code, relating to the Public Utilities Commission, and making an appropriation therefor.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 17, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 322 is added to the Public Utilities Code, to read:

322. (a) The commission shall periodically, at least once each year, compile its rules of procedure together with every order and decision of the commission relating to the conduct of the commission's hearings and proceedings.

(b) The compilation shall include, but not be limited to, matters relating to, all of the following:

(1) Pleadings.
(2) Public notice.
(3) Public attendance.
(4) Specification of issues.
(5) Prehearing procedures.
(6) Discovery.
(7) Evidence.
(8) Supporting documentation.
(9) Submission of briefs and arguments.
(10) Meetings of the commission.
(11) All other rules of procedure governing participation in hearings and proceedings of the commission by public utilities, commission staff, and other persons.

(c) The commission shall prepare and submit a report to the Legislature on or before January 1, 1986, consisting of its first compilation.

SEC. 2. (a) The sum of one hundred fifteen thousand dollars ($115,000) is hereby appropriated to the Public Utilities Commission in accordance with the following schedule:

(1) From the Public Utilities Reimbursement Account, fifty-one thousand dollars ($51,000).

(2) From the Transportation Rate Fund, fifty-six thousand dollars ($56,000).

(3) From the Transportation Reimbursement Account, eight thousand dollars ($8,000).

(b) Of the total amount appropriated pursuant to subdivision (a), all of the amount specified in paragraph (1), thirty-one thousand dollars ($31,000) of the amount specified in paragraph (2), and all of the amount specified in paragraph (3) shall be expended for purposes of Section 322 of the Public Utilities Code.

(c) Of the amount specified in paragraph (2) of subdivision (a), twenty-five thousand dollars ($25,000) shall be expended for purposes of Sections 3520, 3610, 3611, 3612, 3613, 3616, and 5004 of the Public Utilities Code as amended or added by Assembly Bill 3178 of the 1983–84 Regular Session.

CHAPTER 1242

An act to amend Section 215.5 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 18, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 215.5 of the Streets and Highways Code is amended to read:

215.5. (a) The department shall develop and implement a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the California freeway and expressway system. In establishing a priority system, the department shall give the highest consideration to residential areas which were developed prior to the opening of the freeway. If alterations have been made to the freeway since its original opening which result in a significant and measurable increase in ambient noise levels, the opening date for that segment of the freeway, for the purposes of determining priorities under this section, is the completion date of that alteration project. Other criteria for determining priorities shall include the existing and future intensity of sound generated by the freeway, the increase in traffic flow since the original construction

of the freeway, the cost of building the sound wall in relation to the expected noise reduction, the number of persons living in close proximity to the freeway, and whether a majority of the occupants in close proximity to the freeway resided there prior to the time the freeway routing was adopted by the commission. The city or county in which the residential area is located shall be responsible for providing documentation to the department on the percentage of original occupants still residing along the freeway.

(b) When all freeways have been ranked in priority order, the department shall, consistent with available funding, include in its proposed state transportation improvement program, a program of construction of noise attenuation barriers beginning with the highest priority.

(c) If any city or county construct a noise attenuation barrier along a freeway using public funds prior to the time that the barrier reaches a high enough priority for state funding, then, when the funding priority is reached, the department shall reimburse the city or county without interest for the cost of construction, but the reimbursement may not exceed the cost of the department to construct the barriers. Reimbursement shall be made only if the city or county constructs the noise attenuation barrier to the standards approved by department, follows bidding and contracting procedures approved by the department, and the project is approved by the commission.

CHAPTER 1243

An act to add Section 26505 to the Health and Safety Code, relating to food products.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 18, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 26505 is added to the Health and Safety Code, to read:

26505. On or before September 1, 1985, the department shall, within the limits of available resources, prepare and submit to the Legislature a program for detecting and monitoring chemical and pesticide residues in processed foods. In preparing the program, the department shall do all of the following:

(a) Establish a list of chemical and pesticides developed from a knowledge of chemicals used in the food industry in processed foods and from the 96 pesticides on the Department of Food and Agriculture residue scan, for which analysis will be done by the department. The list shall include an explanation of why the listed chemicals and pesticides were selected. The Department of Food

and Agriculture shall cooperate with the State Department of Health Services in establishing the list required by this subdivision. In selecting the chemicals and pesticides to be placed on the list, the department shall make use of the following criteria:

(1) Chemicals which have been identified as having possible carcinogenic, reproductive, or mutagenic effects.

(2) Patterns of use in California.

(3) Quantities of use in California.

(4) Chemicals appearing as residues in processed food because of environmental persistence or resistance to degradation under conditions existing in the processing, manufacturing, milling, or shipping of processed foods sold in California.

(5) Chemicals which have the potential of chronic toxicity due to low continuous exposure.

The department may revise the list and is authorized to add or remove chemicals or pesticides based on relevant information which becomes available to it after the list has been established and based on its experience in detecting the presence of chemical substances in processed foods under the sampling and testing program developed pursuant to subdivision (b).

(b) The department shall design a sampling and testing program which does all of the following:

(1) Samples and tests processed food products which form a significant portion of the diet of the general population, and which may contain residues of the chemical substances on the list established pursuant to subdivision (a).

(2) Provides for specific testing of individual chemicals on the list established pursuant to subdivision (a) when a chemical cannot be detected using multiresidue testing procedures and when the department determines that the chemical may be the cause of chronic health effects.

(3) Lists the foods to be sampled, the stages of processing in which the foods will be sampled, the sampling frequency, and the techniques used in sampling.

(4) A description of plans for sampling processed imported foods from other states and countries.

(c) As used in this section, "processed food" means any food chemically or physically altered from a raw agricultural commodity by chemical, mechanical, thermal, or other processes.

CHAPTER 1244

An act to amend Section 13887 of the Government Code, relating to fiscal affairs, and making an appropriation therefor.

[Approved by Governor September 17, 1984. Filed with Secretary of State September 18, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 13887 of the Government Code is amended to read:

13887. In order for the Legislature and the Governor to establish an appropriate, timely, and coordinated fiscal policy for the state, the commission shall provide the Legislature, the Governor, and the public with forecasts of state revenues, current year expenditures, and the surplus or deficit at least 4 times a year.

In addition, the commission annually shall prepare long-range forecasts of revenues and expenditures for each of the four years immediately beyond the budget year and for the ninth year beyond the budget year.

SEC. 2. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to the Commission on State Finance to implement the provisions of Section 13887 of the Government Code, as amended by Section 1 of this act.

CHAPTER 1245

An act to amend Sections 7504, 7506.3, 7506.4, 7506.8, 7506.9, 7506.11, 7506.13, 7507.9, 7507.10, 7508.2, 7511, 7570, and 7599.70 of, to add Section 7570.1 to, to repeal and add Section 7506.10 of, and to repeal Sections 7506.1 and 7506.2 of, the Business and Professions Code, relating to the Bureau of Collection and Investigative Services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 18, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 7504 of the Business and Professions Code is amended to read:

7504. Except as in this chapter otherwise provided, an applicant for a qualification certificate shall comply with all of the following:

(a) Be at least 18 years of age.

(b) Have been, for at least one year during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency within this state or have had experience in recovering personal property sold under a security agreement within this state.

A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall substantiate the claimed hours of qualifying

experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from others than employers substantiating employment for consideration by the chief.

(c) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director and shall include the applicant's social security number. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the chief, and two classifiable sets of his or her fingerprints.

(d) Pass the examination required.

(e) Pay the required application and examination fees to the bureau.

SEC. 2. Section 7506.1 of the Business and Professions Code is repealed.

SEC. 3. Section 7506.2 of the Business and Professions Code is repealed.

SEC. 4. Section 7506.3 of the Business and Professions Code is amended to read:

7506.3. Except as otherwise provided in this article, every person entering the employ of a licensee after the effective date of this article shall immediately complete an application for an initial registration or a reregistration and shall file the appropriate application with the chief within 15 working days after the commencement of employment.

(a) An initial registration application shall be required of those persons who have not previously submitted an application for, or been registered as, a repossessor employee.

(b) A reregistration application shall be required of those persons who have previously submitted or been registered as a repossessor employee.

SEC. 5. Section 7506.4 of the Business and Professions Code is amended to read:

7506.4. The application for an initial registration or a reregistration under this article shall be on a form prescribed by the director and shall be accompanied by the fee provided for in Section 7511.

SEC. 6. Section 7506.8 of the Business and Professions Code is amended to read:

7506.8. (a) The director may refuse to register any employee if the individual has failed to pay any or all fines assessed pursuant to Section 7501.7 and not resolved in accordance with that section, or has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this chapter, or has committed acts or crimes constituting grounds for denial of a license under Section 480.

The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the director within 30 days of the issuance of the denial.

When a hearing is held under this section, it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The director may suspend or revoke a registration if the registrant has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this chapter.

SEC. 7. Section 7506.9 of the Business and Professions Code is amended to read:

7506.9. (a) Upon the issuance of the initial registration or reregistration, the chief shall issue to the registered employee a suitable pocket identification card. The card shall contain the name of the licensee with whom the registrant is employed.

(b) Until the registration certificate is issued or denied, an employee may be assigned to work with a temporary registration which has been embossed by the bureau with the state seal for a period not to exceed 90 days from the date employment commenced.

(c) No employee of a licensee shall perform the duties of a repossessor employee for a licensee unless the employee has in his or her possession a valid repossessor employee registration card and evidence of current renewal or a temporary registration as described in subdivision (b).

SEC. 8. Section 7506.10 of the Business and Professions Code is repealed.

SEC. 9. Section 7506.10 is added to the Business and Professions Code, to read:

7506.10. (a) Every registration shall expire on December 31 of the first calendar year following the date of issuance, and every year thereafter.

(b) All registrations issued on or before the effective date of this section shall expire on December 31, 1984, and every year thereafter, unless renewed as provided in this section, except for those registrations issued on or after January 1, 1984, which shall expire on December 31, 1985, and every year thereafter, unless renewed as provided in this section.

(c) At least 60 days prior to the expiration, a registrant who desires to renew his or her registration(s) shall forward to the bureau for each registration a renewal form obtained from his or her employer(s) or the bureau, with the renewal fee(s) prescribed by this chapter, for renewal of his or her registration(s).

(d) A licensee shall provide to his or her employees information regarding procedures for renewal of registration.

(e) An expired registration may not be renewed.

(f) Upon renewal, evidence of renewal, as the director may

prescribe, shall be issued to the registrant. If evidence of renewal has not been delivered to the registrant prior to the date of expiration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 60 days after the date of expiration.

(g) A registration shall not be renewed until any and all fines assessed pursuant to this chapter and not resolved in accordance with this chapter have been paid.

SEC. 10. Section 7506.11 of the Business and Professions Code is amended to read:

7506.11. (a) Each registration is valid until the registrant ceases employment with the licensee indicated on the registration card or until the registration expires.

(b) Each person registered under this article shall notify the chief, in writing, within 30 days of any change in employment with a licensee. If the person ceases to be employed by a licensee, the licensee shall notify the chief, in writing, within 30 days. The registered individual shall surrender his or her registration card to the licensee. The licensee shall forward the registration card to the chief. If at some subsequent time the person is again employed by a licensee, he or she shall apply for reregistration in the manner provided in this article.

(c) Each employee while registered shall notify the chief, in writing, within 30 days after any change in his or her residence address.

SEC. 11. Section 7506.13 of the Business and Professions Code is amended to read:

7506.13. (a) The licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this article. The licensee may not have in his or her employment a person subject to registration who has not registered within the time required or whose registration has expired, been revoked, been denied, been suspended, or been canceled.

(b) The bureau shall keep current and accurate records of all persons registered under this article.

SEC. 12. Section 7507.9 of the Business and Professions Code is amended to read:

7507.9. If personal effects or other personal property, not covered by a security agreement, are contained in or on personal property at the time it is recovered, the effects shall be removed from the vehicle, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

(a) The date and time the inventory is made shall be indicated and shall be signed by the repossession agency employee who recovered the personal property on behalf of the legal owner or

mortgagee.

(b) The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

(1) Deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency.

(2) Combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner.

(3) Food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

(c) Personal effects may be disposed of after being held for at least 60 days. The inventory, and adequate information as to how, when, and to whom the personal effects were disposed of, shall be filed in the permanent records of the licensee.

(d) The inventory shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that will be made by the repossession agency. The inventory shall also include the following statement: "Please be advised that the property listed on this inventory will be disposed of by the repossession agency after being held for 60 days from the date of this notice IF UNCLAIMED."

(e) The inventory shall be provided to a consumer not later than 48 hours after the recovery of personal property, except that if:

(1) The 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property.

(2) Inventory resulting from repossession of a yacht, motor home, or travel trailer is such that it shall take at least eight hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property.

(f) The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

SEC. 13. Section 7507.10 of the Business and Professions Code is amended to read:

7507.10. Each licensee shall serve a consumer with a notice of seizure as soon as possible after the recovery of personal property, but in no event later than 48 hours after the repossession of personal

property, which notice shall include all of the following:

(a) The name, address, and phone number of the representative of the legal owner to be contacted regarding the repossession.

(b) The name, address, and phone number of the representative of the repossession agency to be contacted regarding the repossession.

(c) A statement printed on the notice containing the following: "Repossessors are regulated by the Bureau of Collection and Investigative Services, 1920 20th Street, Sacramento, CA 95814. Repossessors are required to provide you, not later than 48 hours after the recovery of personal property, with an inventory of personal effects or personal property recovered during repossession."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession and only while the vehicle is in possession of the repossession agency is the liability of the repossession agency."

The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossession agency.

SEC. 14. Section 7508.2 of the Business and Professions Code is amended to read:

7508.2. The director may assess administrative fines for any of the following prohibited acts:

(a) Recovering personal property or making any money demand in lieu thereof, including but not limited to personal property registered under the Vehicle Code, which has been sold under a security agreement before a signed or telegraphic authorization has been received from the legal owner of the personal property. A telephonic assignment is acceptable if the legal owner is known to the licensee and a written authorization from the legal owner is received by the licensee within 10 working days or a request by the licensee for a written authorization from the legal owner is made in writing within 10 working days. Referrals of assignments from one licensee to another licensee with confirmation to the lienholder, informing the lienholder of the name, address, and license number of the licensee to whom the referral was made are acceptable. The referral of an assignment shall be made under the same terms and conditions as in the original assignment. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

(b) Using personal property or personal effects, which have been recovered, for the personal benefit of a licensee, or officer, partner, manager, or employee of a licensee. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter. This subdivision does not apply to personal effects disposed of pursuant to subdivision (c) of Section 7507.9.

(c) Selling personal property recovered under the provisions of this chapter, except with written authorization from the legal owner or mortgagee thereof. The fine shall be one hundred dollars ($100)

for the first violation and five hundred dollars ($500) for each violation thereafter, per audit.

(d) Failing to remit all money due clients within 10 working days after finalization of the sale of personal property. The licensee shall deposit all money received in the form of cash or negotiable instruments made payable to the licensee for money due clients from the sale of personal property which has been repossessed in a trust account within five working days, and the money shall be withdrawn only for remittance to the client and for the payment of amounts due the licensee. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter. For purposes of this subdivision, "finalization of sale" means the time when the documents of title or ownership which permit transfer of title from the legal owner to the purchaser are received by the repossession agency.

(e) Failing to remit moneys collected in lieu of repossession or redemption to a client within 10 working days after receipt of the moneys. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(f) Failing to deliver to a client any negotiable instrument received by the licensee made payable to the client within 10 working days of receipt of the negotiable instrument. No licensee, manager, or employee of a licensee shall accept a negotiable instrument made payable to a client unless they have authorization from the client to accept such a negotiable instrument. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(g) Unlawfully entering any private building or secured area without the consent of the owner, or of the person in legal possession thereof, at the time of repossession. The fine shall be five hundred dollars ($500) for each violation.

(h) Committing unlawful assault or battery on another person. The fine shall be five hundred dollars ($500) for each violation.

(i) Aiding or abetting an unlicensed repossessor. The fine shall be one thousand dollars ($1,000) for each violation.

(j) Falsification or alteration of an inventory. The fine shall be twenty-five dollars ($25) for each violation.

(k) Soliciting from the legal owner the recovery of specific personal property registered under the Vehicle Code or under the motor vehicle licensing laws of other statutes after the property has been seen or located on a public street or on public or private property without divulging the location of the vehicle. The fine shall be one hundred dollars ($100) for the first violation and two hundred fifty dollars ($250) for each violation thereafter.

SEC. 15. Section 7511 of the Business and Professions Code is amended to read:

7511. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license

is seven hundred fifty dollars ($750), except that the application fee for an original repossession agency license issued pursuant to Section 7503.3 and obtained as a result of a change in partners shall be prorated on a monthly basis. The initial license fee shall be waived where the license is issued less than 45 days before the date on which it will expire.

(b) The application fee for an original qualification certificate is two hundred fifty dollars ($250).

(c) The renewal fee for a repossession agency license is four hundred fifty dollars ($450) annually.

(d) The renewal fee for a license as a qualified certificate holder is two hundred dollars ($200) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Section 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) The fee for reexamination of an applicant or the applicant's qualified certificate holder is ten dollars ($10).

(h) An initial repossessor employee registration fee is fifty dollars ($50), a repossessor employee reregistration fee is twenty-five dollars ($25), and a repossessor employee annual renewal fee is twenty-five dollars ($25) per registration.

(i) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(j) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

SEC. 16. Section 7570 of the Business and Professions Code is amended to read:

7570. The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license for a private patrol operator is one hundred dollars ($100) and for a private investigator and protection dog operator is twenty-five dollars ($25).

(b) The application fee for an original branch office certificate for a private investigator and protection dog operator is fifteen dollars ($15) and for a private patrol operator is fifty dollars ($50).

(c) The fee for an original license is the amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the private patrol

operator or private investigator license will expire less than one year after its issuance, then the fee is the amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The initial license fee shall be waived where the license is issued less than 45 days before the date on which it will expire.

(d) The renewal fee is as follows:

(1) For a license as a private investigator, one hundred dollars ($100).

(2) For a license as a private patrol operator, three hundred fifty dollars ($350).

(3) For a license as a private investigator and private patrol operator, four hundred dollars ($400).

(4) For a license as a protection dog operator, two hundred fifty dollars ($250).

(5) For a branch office certificate for a private investigator and protection dog operator, twenty dollars ($20) and for a private patrol operator, fifty dollars ($50).

(e) The application and the license fees for a change in the type of business organization of a licensee, are the amount prescribed by the director for the issuance of an original license.

(f) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars ($25).

(g) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(h) The fee for reexamination of an applicant or his or her manager is ten dollars ($10).

(i) Registration fees pursuant to this chapter are as follows:

(1) A registration fee for a protection dog operator employee is twelve dollars ($12) and for a security guard is eighteen dollars ($18).

(2) A protection dog operator employee registration renewal fee of ten dollars ($10).

(3) A security guard registration renewal fee of eighteen dollars ($18).

(j) Fees to carry out other provisions of this chapter are as follows:

(1) A firearms qualification fee of thirty dollars ($30).

(2) A firearms requalification fee of twenty dollars ($20).

(3) An initial baton certification fee of twenty dollars ($20).

(4) An application fee and renewal fee for certification as a firearms training facility or a baton training facility of one hundred dollars ($100).

(5) An application fee and renewal fee for certification as a firearms training instructor or a baton training instructor of fifty dollars ($50).

SEC. 17. Section 7570.1 is added to the Business and Professions Code, to read:

7570.1. The fee for processing fingerprints for all registrations and licenses is that amount charged the bureau by the Department

of Justice.

SEC. 18. Section 7599.70 of the Business and Professions Code is amended to read:

7599.70. The fees prescribed by this chapter are those fixed in the following schedule:

(a) A license application fee of twenty-five dollars ($25).

(b) A renewal fee for an alarm company operator license of two hundred dollars ($200).

(c) A qualified manager application and examination fee of seventy-five dollars ($75).

(d) A renewal fee for a qualified manager of seventy-five dollars ($75).

(e) The fee for an original license is the amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued. However, if the license will expire less than one year after its issuance, then the fee is the amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The initial license fee shall be waived where the license is issued less than 45 days before the date on which it will expire.

(f) An original license fee and renewal fee for a branch office certificate of twenty-five dollars ($25).

(g) Notwithstanding Section 163.5, the reinstatement fee as required by Section 7593.12 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(h) A fee for reexamination of an applicant for a qualified manager of ten dollars ($10).

(i) An initial registration fee for an alarm agent of twelve dollars ($12).

(j) A registration renewal fee for an alarm agent of seven dollars ($7).

(k) A firearms qualification fee of thirty dollars ($30) and a firearms requalification fee of twenty dollars ($20).

(*l*) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(m) The processing fee required pursuant to Sections 7593.7 and 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

(n) The fee for a "Certificate of Licensure" of twenty-five dollars ($25).

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Private Investigators Fund will be exhausted before the close of this fiscal year if this bill is not enacted as an urgency statute. It is vital that revenues deposited into this fund are increased to assure adequate regulation of those licensing categories regulated by Chapters 11 (commencing with Section 7500), 11.5 (commencing

with Section 7512), and 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code and to thereby preserve important consumer protections in the law, and therefore, it is necessary that this act go into immediate effect.

CHAPTER 1246

An act to amend Section 232 of the Civil Code, and Sections 332, 356, 361, 366, 366.2, and 366.25 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 18, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare the child free from the custody and control of the child's parents. When the requesting agency is a licensed county adoption agency, the county counsel, and if there is no county counsel, the district attorney shall institute such an action.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence

required by this subdivision may be supplied by the affidavits of two experts each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5 whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(8) A minor who has been found to be a dependent child of the court, pursuant to subdivision (d) of Section 300 of the Welfare and Institutions Code, as a result of severe physical abuse by a parent inflicted when the minor was under three years of age, who has been removed from the physical custody of the parent because of severe physical abuse by that parent pursuant to paragraph (5) of subdivision (b) of Section 361 of the Welfare and Institutions Code, and concerning whom the juvenile court has found that attempts at reunification with his or her parent or parents would be detrimental, pursuant to subdivision (c) of Section 366 of the Welfare and Institutions Code. In cases brought under this subdivision, the finding of the juvenile court that the minor was a victim of severe physical abuse, if final, shall be binding on the court. For purposes of this section, "severe physical abuse" means any of the following:

(A) Any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death.

(B) Any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling.

(C) Repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

The provisions of this paragraph only shall be applicable to free a child from the custody and control of a parent who has inflicted severe physical abuse on that child.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

SEC. 2. Section 332 of the Welfare and Institutions Code is amended to read:

332. A petition to commence proceedings in the juvenile court to declare a minor a ward or a dependent child of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and subdivision under which the proceedings are instituted. If it is alleged that the minor is a person described by subdivision (d) of Section 300, the petition shall contain an allegation that severe physical abuse has occurred if the probation officer intends to request a finding of severe physical abuse pursuant to Section 356.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to the petitioner, of both parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to the petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there is none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the

minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, of all of the following: (1) Section 903 makes that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor or the parent by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

SEC. 3. Section 356 of the Welfare and Institutions Code is amended to read:

356. After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly and shall then proceed to hear evidence on the question of the proper disposition of the minor. Prior to making a finding required under this section, the court may continue the hearing, if necessary, to receive the social study of the probation officer, or to receive other evidence on its own motion, the motion of a parent or guardian, or the motion of the minor as follows:

(a) If the minor is detained during the continuance, the continuance shall not exceed 10 judicial days.

(b) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of filing the petition. However, the court may, for cause, continue the hearing for an additional 15 days.

(c) The court may make such order for detention of the minor or for the minor's release from detention, during the period of the continuance, as is appropriate.

If the court finds that the minor is a person described by subdivision (d) of Section 300, it shall make and enter a finding as to whether or not the minor has been a victim of severe physical abuse.

For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts

of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

SEC. 4. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or

unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

The court shall state the facts on which the decision to remove the child is based. The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Sections 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months; or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Sections 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of the provisions of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and of the consequences which may result pursuant to that paragraph from matters proven in and found by the juvenile court.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be

endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placements in the home and to investigate the circumstances surrounding the severe physical abuse of the minor and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

SEC. 5. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months until the permanency planning hearing required under Section 366.25 is completed. The

court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the permanency planning hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.25 and 16503.

(c) In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, the court shall, as soon as reasonably feasible but in no case later than six months from that removal, conduct a hearing to review the report of the probation officer required by subdivision (e) of Section 361. If the court finds at the review that it would not be detrimental to the minor to attempt to reunify the minor with his or her parent or guardian, the court shall proceed pursuant to subdivision (a). If the court finds that it would be detrimental to the minor to attempt to reunify the minor with his or her parent or guardian, the court shall immediately proceed to conduct a permanency planning hearing for the minor pursuant to Section 366.25. The probation department shall have the burden of establishing that detriment by a preponderance of the evidence.

SEC. 6. Section 366.2 of the Welfare and Institutions Code is amended to read:

366.2. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or home finding agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

(c) At least 16 days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services offered to the family, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 14 days before the hearing. In the case of a minor

removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the foster parents, community care facility, or home finding agency having the physical custody of the minor at least 14 days before the hearing. This subdivision does not apply to the minor if he or she has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or home finding agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) The court shall proceed as follows at the review hearing: The court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 232 of the Civil Code may be instituted. This subdivision does not apply to the minor if he or she has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental.

SEC. 7. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for

children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original placement and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who has been removed from his or her parent or guardian pursuant to paragraph (5) of subdivision (b) of Section 361 because of severe physical abuse, and concerning whom the court has found, pursuant to subdivision (c) of Section 366, that return of the minor to his or her parent or guardian would be detrimental to the minor, a permanency planning hearing shall be held immediately upon the making of such a finding, or as soon thereafter as is reasonably feasible.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days, prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to subdivision (c) of Section 366, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian, the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines, it shall set another review hearing for not more than six months, which shall be a permanency planning hearing. In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and concerning whom the court has found pursuant to subdivision (c) of Section 366 that attempts at reunificaton with his or her parent or guardian would be detrimental, the court shall not continue proceedings for further review pursuant to this subdivision.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home, the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to this article, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of

his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is unadoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and the adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of these periods.

(i) Permanency planning hearings need not be held if (1) an action under Section 232 of the Civil Code has been commenced or (2) an action to establish a legal guardianship or appoint a legal guardian under the Probate Code has been commenced.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board, except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 8. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

(3) Whose parent or parents suffer a disability because of the

habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of

any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5 whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

If the minor has been adjudged a dependent child of the juvenile court and placed in out-of-home placement pursuant to Section 361 of the Welfare and Institutions Code, the one-year period shall be calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section. If the minor is in placement under the supervision of a county welfare department or other public or private licensed child-placing agency, pursuant to a voluntary placement, as described in Section 16507.4 of the Welfare and Institutions Code, the one-year period shall be calculated from the date the minor entered out-of-home placement.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(8) A minor who has been found to be a dependent child of the court, pursuant to subdivision (d) of Section 300 of the Welfare and Institutions Code, as a result of severe physical abuse by a parent inflicted when the minor was under three years of age, who has been removed from the physical custody of the parent because of severe physical abuse by that parent pursuant to paragraph (5) of subdivision (b) of Section 361 of the Welfare and Institutions Code,

and concerning whom the juvenile court has found that attempts at reunification with his or her parent or parents would be detrimental, pursuant to subdivision (c) of Section 366 of the Welfare and Institutions Code. In cases brought under this subdivision, the finding of the juvenile court that the minor was a victim of severe physical abuse, if final, shall be binding on the court. For purposes of this section, "severe physical abuse" means any of the following:

(A) Any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death.

(B) Any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling.

(C) Repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

The provisions of this paragraph only shall be applicable to free a child from the custody and control of a parent who has inflicted severe physical abuse on that child.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

(d) Section 5158 shall not apply to proceedings pursuant to this section.

SEC. 9. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive

behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of the provisions of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and of the consequences which may result pursuant to that paragraph from matters proven in and found by the juvenile

court.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services,

unless such participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placement in the home and to investigate the circumstances surrounding the severe physical abuse of the minor and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

SEC. 10. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366, the minor may be declared

permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

The court shall state the facts on which the decision to remove the child is based. The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months; or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of the provisions of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and

of the consequences which may result pursuant to that paragraph from matters proven in and found by the juvenile court.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services, unless such participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the

period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placements in the home and to investigate the circumstances surrounding the severe physical abuse of the minor and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

SEC. 11. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without

removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home. The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of the provisions of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and of the consequences which may result pursuant to the provisions of that paragraph from matters proven in and found by the juvenile court.

(c) If the minor is taken from the physical custody of the minor's

parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in such services, unless such participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up

to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placements in the home and to investigate the circumstances surrounding the severe physical abuse of the minor and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

SEC. 12. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the permanency planning hearing required under Section 366.25 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the permanency planning hearing periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.25 and 16503.

(c) In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, the court shall, as soon as reasonably feasible but in no case later than six months from that removal, conduct a hearing to review the report of the probation officer required by subdivision (e) of Section 361. If the court finds at the review that it would not

be detrimental to the minor to attempt to reunify the minor with his or her parent or guardian, the court shall proceed pursuant to subdivision (a). If the court finds that it would be detrimental to the minor to attempt to reunify the minor with his or her parent or guardian, the court shall immediately proceed to conduct a permanency planning hearing for the minor pursuant to Section 366.25. The probation department shall have the burden of establishing that detriment by a preponderance of the evidence.

SEC. 13. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who has been removed from his or her parent or guardian pursuant to paragraph (5) of subdivision (b) of Section 361 because of severe physical abuse, and concerning whom the court has found, pursuant to subdivision (c) of Section 366, that return of the minor to his or her parent or guardian would be detrimental to the minor, a permanency planning hearing shall be held immediately upon the making of such a finding, or as soon thereafter as is reasonably feasible.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to subdivision (c) of Section 366, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing. In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant

to paragraph (5) of subdivision (b) of Section 361, and concerning whom the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental, the court shall not continue proceedings for further review pursuant to this subdivision.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to this article, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is unadoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(3) (A) If the court finds that the minor is not adoptable, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare

department or probation department to a licensed home finding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed home finding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed home finding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the home finding agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a home finding agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the

court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 14. Section 8 of this bill incorporates amendments to Section 232 of the Civil Code proposed by both this bill and SB 1293. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 232 of the Civil Code, and (3) this bill is enacted after SB 1293, in which case Section 232 of the Civil Code, as amended by SB 1293, shall remain operative only until the operative date of this bill, at which time Section 8 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 15. (a) Section 9 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and SB 1293. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 361 of the Welfare and Institutions Code, (3) AB 2712 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1293, in which case Section 361 of the Welfare and Institutions Code as amended by SB 1293 shall remain operative only until the operative date of this bill at which time Section 9 of this bill shall become operative and Sections 4, 10, and 11 of this bill shall not become operative.

(b) Section 10 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by both this bill and AB 2712. It shall only become operative if (1) both bills are enacted and become effective January 1, 1985, (2) each bill amends Section 361 of the Welfare and Institutions Code, (3) SB 1293 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2712 in which case Sections 4, 9, and 11 of this bill shall not become operative.

(c) Section 11 of this bill incorporates amendments to Section 361 of the Welfare and Institutions Code proposed by this bill, SB 1293, and AB 2712. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 361 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1293 and AB 2712, in which case

Section 361 of the Welfare and Institutions Code as amended by SB 1293 shall remain operative only until the operative date of this bill at which time Section 11 of this bill shall become operative and Sections 4, 9, and 10 of this bill shall not become operative.

SEC. 16. Section 12 of this bill incorporates amendments to Section 366 of the Welfare and Institutions Code proposed by both this bill and SB 1293. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 366 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1293, in which case Section 366 of the Welfare and Institutions Code, as amended by SB 1293, shall remain operative only until the operative date of this bill, at which time Section 12 of this bill shall become operative, and Section 5 of this bill shall not become operative.

SEC. 17. Section 13 of this bill incorporates amendments to Section 366.25 of the Welfare and Institutions Code proposed by both this bill and SB 1293. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 366.25 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1293, in which case Section 366.25 of the Welfare and Institutions Code, as amended by SB 1293, shall remain operative only until the operative date of this bill, at which time Section 13 of this bill shall become operative, and Section 7 of this bill shall not become operative.

CHAPTER 1247

An act relating to public resources.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Notwithstanding any other provision of law, the Director of the Department of General Services may sell its reversionary interest in the approximately 9.6 acre Los Coches Wayside Park to the City of Soledad for such considerations and upon such terms and conditions as the director deems appropriate.

SEC. 2. (a) The Legislature hereby finds and declares all of the following:

(1) On April 8, 1977, the state, by quitclaim deed recorded on May 3, 1977, as Document No. G-20128, Reel 1142, Page 495, in the Office of the Recorder, County of Monterey, Salinas, California, (hereafter the "quitclaim deed"), quitclaimed to the City of Soledad the real property described in the quitclaim deed (hereafter the "property") subject to the conditions set forth in the quitclaim deed.

(2) On November 23, 1983, the City of Soledad entered into a

lease with a private party, which lease was recorded on January 12, 1984, as Document No. G-01642, Reel 1699, Page 1108 in the Office of the Recorder, County of Monterey, Salinas, California (hereinafter the "lease").

(3) The lease contemplates that the Richardson Adobe, a state historical and national landmark located on the property, will be restored, as well as the development of a museum, restaurant, and inn to enhance the historical structures and to serve as a rest stop for travelers.

(4) The state desires to clarify, as a matter of record, that the lease does not in any way violate any condition set forth in the quitclaim deed from the state to the city and desires to recognize the lease and to assure the lessee possession of the property for the entire term of the lease upon the terms of the lease.

(b) Accordingly, the state hereby acknowledges and agrees to all of the following:

(1) The lease does not violate any condition of the quitclaim deed.

(2) The lessee's possession of the property in accordance with the terms of the lease does not violate any condition of the quitclaim deed.

(3) The City of Soledad's title to the property shall remain in full force and effect notwithstanding the city entering into the lease and carrying out its obligations thereunder.

(4) The state hereby acknowledges and consents to the lease and lessee's rights thereunder.

(5) This act is binding on, and inures to the benefit of, the parties' respective successors and assigns.

CHAPTER 1248

An act to amend Section 11051 of the Welfare and Institutions Code, relating to aid to families with dependent children.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 11051 of the Welfare and Institutions Code is amended to read:

11051. Whenever a former recipient of aid requests restoration of aid before the expiration of one year from the effective date of a cancellation or a discontinuance, and if it is determined that he or she is eligible for that aid, it shall be granted to him or her without the necessity for a new application. The person shall, however, be required to file a new affirmation of eligibility, as described in Section 11054.

Additionally, whenever a former recipient of aid requests

restoration of aid within the calendar month following the effective date of a discontinuance, a county shall not require the former recipient to furnish any documentation previously provided the county unless the documentation is absent from the existing file and the documentation affects eligibility or amount of aid for the month of restoration.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1249

An act to amend Section 1984 of the Civil Code, to amend Sections 1141.20, and 1292 of the Code of Civil Procedure, and to amend Sections 68071 and 72450 of, to repeal Section 72451 of, and to add and repeal Section 68090.3 of, the Government Code, relating to courts.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1984 of the Civil Code is amended to read:

1984. (a) A notice given to the former tenant which is in substantially the following form satisfies the requirements of Section 1983:

Notice of Right to Reclaim Abandoned Property

To: _____

(Name of former tenant)

_____

(Address of former tenant)

When you vacated the premises at _____

_____ ,

(Address of premises, including room or apartment number, if any)

the following personal property remained:

_____

(Insert description of the personal property)

You may claim this property at _____

_____ .

(Address where property may be claimed)

Unless you pay the reasonable cost of storage for all the above-described property, and take possession of the property which you claim, not later than _____ (insert date not less than 15 days

after notice is personally delivered or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code Section 1988.

(Insert here the statement required by subdivision (b) of this section)

Dated:_____

_____
(Signature of landlord)

_____
(Type or print name of landlord)

_____
(Telephone number)

_____
(Address)

(b) The notice set forth in subdivision (a) shall also contain one of the following statements:

(1) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the cost of storage, advertising, and sale is deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within one year after the county receives the money."

(2) "Because this property is believed to be worth less than $300, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

SEC. 2. Section 1141.20 of the Code of Civil Procedure is amended to read:

1141.20. (a) An arbitration award shall be final unless a request for a de novo trial is filed within 30 days after the date the arbitrator files the award with the court.

(b) Any party may elect to have a de novo trial, by court or jury, both as to law and facts. Such trial shall be calendared, insofar as possible, so that the trial shall be given the same place on the active list as it had prior to arbitration, or shall receive civil priority on the next setting calendar.

SEC. 3. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior, municipal, or justice court shall take effect until it has been filed with the Judicial Council for at least 30 days, but the court may specify an earlier effective date if the presiding judge certifies to the Judicial Council that it is necessary for the rule to take effect earlier. Copies of such rules and amendments shall be filed with the clerks of the respective courts and be available for public examination.

SEC. 3.5. Section 68090.3 is added to the Government Code, to read:

(a) Notwithstanding Sections 26820.8 or 72056.5, in any county where the fee adjustment for courts for the 1983–84 biennium did

not exceed 6 percent, the adjustment for the two-year period covering calendar years 1985 and 1986 may exceed 6 percent when any adjustment in excess of 6 percent for those two years reflects a law library fee increase pursuant to Section 6322.1 of the Business and Professions Code; however, in no event shall the adjustment exceed 10 percent for the biennium.

(b) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 4. Section 72450 of the Government Code is amended to read:

72450. A municipal court, if the board of supervisors finds there are sufficient funds for the position, may appoint a traffic trial commissioner to serve, at the pleasure of the court. The traffic trial commissioner shall be selected from a list of qualified applicants openly recruited after advertisement for the position in a newspaper of general circulation pursuant to Sections 6000 and 6061.3. A traffic trial commissioner shall serve full time but may be appointed to serve two or more courts. Each traffic trial commissioner shall have the qualifications of a judge of the municipal court and shall not engage in the private practice of law. A traffic trial commissioner may exercise all the powers and perform all the duties authorized by law to be performed by commissioners of municipal courts. Unless otherwise expressly provided by law, a traffic trial commissioner shall receive the same salary provided by law for municipal court commissioners in the county. In a county where there is no salary established for a municipal court commissioner, a traffic trial commissioner shall receive a salary of not less than 75 percent of that paid to a judge of the municipal court.

SEC. 5. Section 72451 of the Government Code is repealed.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1250

An act to add Section 21080.18 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 21080.18 is added to the Public Resources Code, to read:

21080.18. This division does not apply to the closing of any public school in which kindergarten or any of grades 1 through 12 is maintained.

CHAPTER 1251

An act to add Section 6873.5 to the Public Resources Code, relating to fishery protection.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 6873.5 is added to the Public Resources Code, to read:

6873.5. (a) In carrying out the requirements of subdivision (b) of Section 6873 and the California Environmental Quality Act, the commission shall, prior to the adoption of a form of lease for leasing offshore tide and submerged lands between the mean high tide line and the three-mile jurisdictional limit, consult with the Department of Fish and Game, the National Marine Fisheries Service, and representatives of the oil industry, representatives of fishermen operating within the area being considered for leasing. The commission shall hold at least one hearing on the draft environmental document prepared for the proposed lease in a jurisdiction of a local government within the coastal zone, as defined by Section 30103, near the area being considered for leasing. The authority to hold hearings provided in this section may be delegated by the commission to its officers or employees.

(b) The commission shall consider the potential impacts of the proposed lease on the fisheries and marine habitat within the area being considered for leasing. The commission shall include in its consideration:

(1) The environmental document prepared for the proposed lease.

(2) Recommendations of the Department of Fish and Game, the National Marine Fisheries Service, the oil industry, and fishermen.

(3) The cooperative efforts of the oil industry and fishermen to develop plans to mitigate potential impacts.

(c) Fishery areas that should be considered for protection include established fishing grounds or critical spawning or nursery grounds as indicated by records of the Department of Fish and Game.

(d) The commission may impose terms, conditions, or operational requirements it deems necessary to protect fisheries, including, but not limited to, the exclusion of specified areas from development activities.

(e) This section shall not be construed as a limitation on slant or directional drilling under the excluded area from any location outside an excluded fishery area.

CHAPTER 1252

An act to add Sections 7066.5 and 7080.5 to the Business and Professions Code, relating to contractors.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 7066.5 is added to the Business and Professions Code, to read:

7066.5. Any person may obtain blank license application, renewal, or reinstatement forms from the Department of Consumer Affairs, or may cause to be printed forms used by or approved by the Registrar of Contractors.

SEC. 2. Section 7080.5 is added to the Business and Professions Code, to read:

7080.5. When an application has been accepted by the registrar, the name and address of the applicant, every classification for which the applicant has applied, and the names and titles of all personnel who have signed the application shall be publicly posted by the registrar, on the day following acceptance, in the office of the Contractors' State License Board in Sacramento.

CHAPTER 1253

An act to amend Section 100081 of the Public Utilities Code, relating to transit districts.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 100081 of the Public Utilites Code is amended to read:

100081. The commission shall be composed of 29 members as follows:

(a) Fifteen city councilmen, one to be appointed by the city council from its membership from each of the following cities: Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale.

(b) Nine public members to represent persons who have a special need for transit service, such as minority persons, persons with limited means, the elderly, the handicapped, and the young, who shall be appointed as follows: five by the San Jose City Council, one by the Santa Clara City Council, one by the Sunnyvale City Council, and two by the board of supervisors.

(c) Five public members, two of whom shall reside in San Jose, appointed by the board of supervisors because of their special knowledge of transit.

Members of the commission shall serve a two-year term, and any vacancy on the commission shall be filled for the balance of the term by the authority who holds the appointment to that vacancy. A vacancy exists on the commission if a member who is serving thereon because he or she holds the office of councilman no longer holds that office.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 3. This act was requested by the City of San Jose. Therefore, in accordance with Section 2 of this act, the City of San Jose is liable for the payment of any costs mandated by the act, including any costs incurred by local agencies in addition to the City of San Jose.

CHAPTER 1254

An act relating to veterans' farm and home purchase.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. The Department of Veterans Affairs, in consultation with the Department of Housing and Community Development and representatives of the housing, real estate, and mobilehome industries, shall conduct an investigation and study of alternative methods to provide affordable housing for qualified veterans under the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code), including a consideration of the geographic regional differences in housing costs throughout the state. The investigation and study shall include identification of the methodology employed in selecting the geographic regions employed in obtaining information for these purposes. The department shall prepare and submit to the Legislature on or before October 1, 1985, a report of its findings, conclusions, and recommendations.

CHAPTER 1255

An act to amend, repeal, and add Section 94310 of the Education Code, relating to postsecondary education.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 94310 of the Education Code is amended to read:

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution, which at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(1) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and

assessment of, and has approved, each program offered by the institution, and the superintendent has determined, based upon information submitted to him or her, all of the following:

(A) The institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students, and require of students, the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(B) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions which are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(C) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(2) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(A) Grant full institutional approval for a period not to exceed three years.

(B) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(C) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(3) (A) The superintendent shall grant full institutional approval status three years to all institutions operating pursuant to subdivision (b) of Section 94310 on June 30, 1984, as it read on that date and which have received full approval of all courses offered.

(B) The superintendent shall grant candidate for institutional approval status for a period not to exceed two years to all institutions operating, on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this subparagraph shall file a completed application for either full institutional approval pursuant to this subdivision, or authorization to operate pursuant to subdivision (c).

(4) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study which do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

(c) The institution has met standards developed and recommended by the Council for Postsecondary Educational Institutions pursuant to Section 94304.5, and adopted by the Legislature.

(d) The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed all of the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust,

or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(A) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(B) The address, including city and street, of every place of doing business of the person, firm, association, partnership or corporation, within this state.

(C) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of the records.

(D) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(E) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate can be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take such steps as may be necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

(e) This section shall become operative July 1, 1984.

SEC. 2. Section 94310 of the Education Code, as amended by Senate Bill No. 2151 of the 1983–84 Regular Session, is repealed.

SEC. 3. Section 94310 is added to the Education Code, to read:

94310. No institution may issue, confer, or award an academic or

honorary degree unless the institution meets the requirements of at least one of the four subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution, which at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(1) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, and has approved, each program offered by the institution, and the superintendent has determined, based upon information submitted to him or her, all of the following:

(A) The institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students, and require of students, the completion of a program of education which will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(B) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions which are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(C) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(2) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited

and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(A) Grant full institutional approval for a period not to exceed three years.

(B) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(C) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(3) (A) The superintendent shall grant full institutional approval status for three years to all institutions operating pursuant to subdivision (b) of Section 94310 on June 30, 1984, as it read on that date and which have received full approval of all courses offered.

(B) The superintendent shall grant candidate for institutional approval status for a period not to exceed two years to all institutions operating on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this subparagraph shall file a completed application for either full institutional approval pursuant to this subdivision, or authorization to operate pursuant to subdivision (c).

(4) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study which do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

(c) The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Private Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(1) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a three-member visiting committee impaneled by the superintendent for that purpose pursuant to paragraph (2). The process shall review all of the following:

(A) Institutional objectives.

(B) Administrative methods.
(C) Curriculum.
(D) Instruction.
(E) Faculty, including their qualifications.
(F) Physical facilities.
(G) Administrative personnel.
(H) Procedures for keeping educational records.
(I) Tuition, fee, and refund schedules.
(J) Admissions standards.
(K) Scholastic regulations and graduation requirements.
(L) Degrees offered.

(M) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds which may reasonably be expected under the institution's refund policy.

(2) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(A) One member appointed by the director of the California Postsecondary Education Commission.

(B) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.

(C) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(D) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(3) The visiting committee's responsibilities shall include all of the following:

(A) To verify the accuracy of the information submitted by the applicant institution.

(B) To determine whether the applicant institution complies with the standards required by statute and regulation.

(C) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(D) To review the applicant institution's response to the preliminary report, and no later than 30 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for

the grant of authorization or for the denial of that authorization.

(4) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(5) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(A) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this subparagraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(B) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to subparagraph (B) and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(6) Not later than 90 days prior to the expiration of an authorization to operate, an institution shall file a completed application for reauthorization pursuant to subdivision (c) with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.

(7) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this paragraph shall file a completed application for reauthorization pursuant to subdivision (c).

(8) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, the Superintendent of Public Instruction, State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(9) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent which would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period,

the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

(d) The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed all of the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(A) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(B) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(C) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of those records.

(D) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(E) That the records required by subdivision (k) of Section 94312

are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

SEC. 4. Section 3 of this bill incorporates amendments to Section 94310 of the Education Code proposed by both this bill and SB 2151. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 1985, (2) both bills amend Section 94310 of the Education Code, and (3) this bill is enacted after SB 2151, in which case Section 94310 of the Education Code, as amended by SB 2151, shall remain operative only until the operative date of this bill, at which time Sections 2 and 3 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 1256

An act to add Section 5003.35 to the Public Resources Code, relating to acquisition and management of public resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature hereby finds and declares that real property at and in the vicinity of Point St. George in Del Norte County offers important wildlife and public recreational values and has significant coastal resources. In particular, portions of this real property have the potential to be restored as habitat for the Aleutian goose, which has been classified as an endangered species by the United States Fish and Wildlife Service and whose population, though growing, remains under 4,000 in California. A portion of this real property is registered as an archaeological district and portions also are known to contain significant paleontological resources. The real property adjoins an offshore national wildlife preserve known as Castle Rock and affords extensive opportunities for enjoyment of scenery and other features of predominantly open coastal lands.

(b) Accordingly, pursuant to Section 1345 of the Fish and Game Code, the Wildlife Conservation Board shall determine the suitability of acquiring real property in Del Norte County, consisting of approximately 320 acres at Point St. George and North Beach and a portion of the parcel of approximately 100 acres owned by the County of Del Norte lying to the north thereof.

SEC. 2. Section 5003.35 is added to the Public Resources Code, to read:

5003.35. Notwithstanding Section 5003.1, waterfowl hunting shall be allowed at the Lake Earl and Lake Talawa project in accordance with the existing interagency agreement with the Department of Fish and Game and with regulations of the Fish and Game Commission governing waterfowl hunting at the project. The agreement shall be extended until such time as the project is classified as a unit of the state park system.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that acquisition of real property for wildlife habitat and compatible public recreational use in Del Norte County may be investigated and studied as soon as possible during the 1984–85 fiscal year, and in order to provide for hunting at Lakes Earl and Talawa during hunting seasons commencing during 1984, it is necessary that this act take effect immediately.

CHAPTER 1257

An act to amend Sections 14509 and 66504.1 of the Government Code, and to amend Section 103113 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 14509 of the Government Code is amended to read:

14509. Each member shall receive a compensation of one hundred dollars ($100) per day, but not to exceed eight hundred dollars ($800) for any commission business authorized by the commission during any month, when a majority of the commission approves the compensation by a recorded vote, plus the necessary expenses incurred by the member in the performance of the member's duties. The need for up to eight days per diem per month is unique to the commission in that its members must evaluate projects and issues throughout the state in order to prioritize projects for the state transportation improvement program. These responsibilities require greater time, attention, and travel than local or regional transportation entities which have responsibility only for individual portions of the program.

SEC. 2. Section 66504.1 of the Government Code is amended to read:

66504.1. The members shall serve without compensation, but shall receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties. However, in lieu of this reimbursement for attendance at commission or committee meetings, each member of the commission may receive a per diem of one hundred dollars ($100), but not to exceed a combined total of five meetings in any one calendar month, plus the necessary traveling expenses as may be authorized by the commission. The commission shall pay all costs pursuant to this section.

SEC. 3. Section 103113 of the Public Utilities Code is amended to read:

103113. Each member of the board shall receive compensation, as determined by the board, in an amount not to exceed fifty dollars ($50) for attending each meeting of the board and each committee meeting, but not to exceed three hundred dollars ($300) in any month, and shall receive his or her actual necessary expenses incurred in the performance of his or her duty.

CHAPTER 1258

An act to amend Sections 435 and 546 of, to add Section 301.1 to, and to repeal Section 476 of, the Streets and Highways Code, relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 301.1 is added to the Streets and Highways Code, to read:

301.1. Route 1 shall also include that portion of the Lompoc-Casmalia Road and Vandenberg Road in the County of Santa Barbara from the intersection of the Lompoc-Casmalia Road and Route 1 north of Lompoc near Mission Hills to the intersection of Vandenberg Road and Route 1 south of Orcutt.

SEC. 2. Section 435 of the Streets and Highways Code is amended to read:

435. Route 135 is from:

(a) Route 101 near Los Alamos to Route 1 south of Orcutt.

(b) Route 1 near Orcutt to Route 101 north of Santa Maria.

SEC. 3. Section 476 of the Streets and Highways Code is repealed.

SEC. 4. Section 546 of the Streets and Highways Code is amended to read:

546. Route 246 is from:

(a) Current west city limits of the City of Lompoc to Route 1.

(b) Route 1 to Route 154 near Santa Ynez.

SEC. 5. The exchange of maintenance and responsibility for the included portions of the Lompoc-Casmalia Road and the Vandenberg Road, the deleted portions of Routes 1 and 246, and Route 176 in its entirety shall not be made until these highways have been brought into a state of good repair as agreed to by the County of Santa Barbara and the Department of Transportation, or until agreement is reached on the relative cost exchange to bring these highways into a state of good repair as provided in Sections 23, 27, and 73 of the Streets and Highways Code.

The existing portion of Route 1 from the south junction with the Lompoc-Casmalia Road to the junction with Route 135, the existing portion of Route 246 from Surf to the current west city limits of the City of Lompoc, and existing Route 176 in its entirety shall cease to be state highways when the department assumes maintenance of the specified portion of Lompoc-Casmalia Road and Vandenberg Road in the County of Santa Barbara as provided in Section 301.1 of the Streets and Highways Code.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the proposed changes to State Highway Routes 1, 176, and 246 to take place as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1259

An act to add Section 10353 of the Public Contract Code, and to add Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to employment.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that it is in agreement with the Governor that the state should provide recipients with the critical step away from welfare dependency and toward self-sufficiency.

The Legislature further agrees with the Governor that the overwhelming majority of welfare recipients want to work and join society as productive members.

The Legislature believes that models designed to reduce welfare dependency should be demonstrated, tested, and evaluated.

SEC. 2. Section 10353 is added to the Public Contract Code, to read:

10353. A contract in an amount in excess of two hundred thousand dollars ($200,000) which is governed by the provisions of this part shall contain a provision requiring the contractor to give priority consideration in filling vacancies in positions funded by the contract to qualified recipients of aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, in accordance with Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

This section and Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall not be applicable to any contracts for a project as defined in Section 10105.

This section and Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall not be construed so as to do any of the following:

(a) Interfere with or create a violation of the terms of valid collective bargaining agreements.

(b) Require the contractor to hire an unqualified recipient of aid.

(c) Interfere with, or create a violation of, any federal affirmative action obligation of a contractor for hiring disabled veterans or veterans of the Vietnam era.

(d) Interfere with, or create a violation of, the requirements of Section 12990 of the Government Code.

If waivers are deemed necessary to implement this section and Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3

of Division 9 of the Welfare and Institutions Code, and if the State Department of Social Services has not obtained these waivers from the federal government by March 1, 1985, the department shall report on the barriers to the waivers and the expected date of waiver approval.

SEC. 3. Article 3.9 (commencing with Section 11349) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.9. Employment with Public Contractors

11349. In complying with Section 10353 of the Public Contract Code, a contractor shall give priority consideration to qualified recipients of aid under this chapter. For purposes of this article, priority consideration means that a contractor shall hire all qualified job applicants who are recipients of aid under this chapter and who apply within five working days of the listing of the job opening with the Employment Development Department, before hiring any other applicant.

11349.1. Notwithstanding any other provision of law, participation by a recipient of aid under this chapter, shall be voluntary only, and in no event shall any person be subject to sanctions, through loss of benefits or eligibility, for not applying for, accepting, or continuing in such a position.

11349.2. Contractors shall immediately list with the appropriate local office of the Employment Development Department all suitable employment openings in positions funded by a contract subject to Section 10353 of the Public Contract Code. The Employment Development Department shall advise qualified recipients of aid of these openings and shall refer them to the contractor within five working days from the listing of the openings. The Employment Development Department shall advise recipients of aid of the voluntary nature of an application for such an opening, and that the recipients shall have priority in being hired for these openings, provided the recipient possesses all the necessary skills and meets all requirements of the employer.

11349.3. This article and Section 10353 of the Public Contract Code may be waived by the Governor, if requested to do so by the state agency involved, in order to address an emergency which threatens the public health or safety, the state's natural resources, or the economy. If an emergency waiver is granted, notification including reasons for the waiver shall be forwarded to the Joint Legislative Budget Committee within five working days.

11349.4. In the event that the State Department of Social Services determines that a waiver of any federal regulations or policies, or both, are required to fulfill the provisions of this article, the department shall seek those waivers. If the waivers necessary are not granted by March 1, 1985, the department shall report on the barriers to the waivers and the expected date of waiver approval.

CHAPTER 1260

An act to amend Section 14134 of the Welfare and Institutions Code, and to amend Section 77 of Chapter 1594 of the Statutes of 1982, relating to Medi-Cal.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 14134 of the Welfare and Institutions Code is amended to read:

14134. Except for any prescription, refill, visit, service, device, or item for which the program's payment is ten dollars ($10) or less, in which case no copayment shall be required, a recipient of services under this chapter shall be required to make copayments not to exceed the maximum permitted under federal regulations or federal waivers as follows:

(a) Copayment of five dollars ($5) shall be made for nonemergency services received in an emergency room. For the purposes of this section, "nonemergency services" means any services not required for the alleviation of severe pain or the immediate diagnosis and treatment of severe medical conditions which, if not immediately diagnosed and treated, would lead to disability or death.

(b) Copayment of one dollar ($1) shall be made for each drug prescription or refill.

(c) Copayment of one dollar ($1) shall be made for each visit for services under subdivisions (a) and (h) of Section 14132.

(d) The copayment amounts set forth in subdivisions (a), (b), and (c) may be collected and retained or waived by the provider.

(e) The department shall not reduce the reimbursement otherwise due to providers as a result of the copayment. The copayment amounts shall be in addition to any reimbursement otherwise due the provider for services rendered under this program.

(f) This section does not apply to emergency services, family planning services, or to any services received by:

(1) Any child in AFDC-Foster Care, as defined in Section 11400.

(2) Any person who is an inpatient in a health facility, as defined in Section 1250 of the Health and Safety Code.

(3) Any person 18 years of age or under.

(4) Any woman receiving perinatal care.

(g) Subdivision (b) does not apply to any person 65 years of age or over.

(h) A provider of service shall not deny care or services to an individual solely because of that person's inability to copay under this section. An individual shall, however, remain liable to the provider

for any copayment amount owed.

(i) The department shall seek any federal waivers necessary to implement this section. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(j) The director shall adopt any regulations necessary to implement this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The director shall transmit these emergency regulations directly to the Secretary of State for filing and the regulations shall become effective immediately upon filing. Upon completion of the formal regulation adoption process and prior to the expiration of the 120 day duration period of emergency regulations, the director shall transmit directly to the Secretary of State for filing the adopted regulations, the rulemaking file, and the certification of compliance as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 2. Section 77 of Chapter 1594 of the Statutes of 1982 is amended to read:

Sec. 77. For the 1982–83 fiscal year, in order to effectuate savings under the Medi-Cal program, the State Department of Health Services shall do all of the following:

(1) Reduce by 10 percent, rates of reimbursement for services provided by physicians, podiatrists, and outpatient departments of hospitals. This provision does not apply to outpatient services provided by clinics licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

This provision does not apply to laboratory and pathology services or to freestanding clinics exempt from licensure under Section 1206.

(2) It is the intent of the Legislature to reduce pharmacy program expenditures by sixteen million dollars ($16,000,000) General Fund money. To achieve this savings goal, the department shall eliminate drugs, medical supplies, and nonprescription and prescription drugs from the Medi-Cal Drug Formulary, or from the Medi-Cal program, and implement other utilization controls for retained items. In implementing this provision, the director shall determine which drugs shall be eliminated based on standards of cost, critical therapeutic importance, safety, efficacy, and need. It is the intent of the Legislature that, in making these reductions, the department shall give priority consideration to the elimination of common medicine chest medical supply items, over-the-counter drug products, prescription drug products which afford minor symptomatic relief, and codeine and other narcotic analgesics. The department shall, however, allow codeine prescriptions under all of

the following conditions:

(a) A prescription shall include no more than 30 dosage units.

(b) A dosage unit shall be no greater than one-half grain.

(c) No codeine compound shall contain aspirin, phenactin, or caffeine, in any combination.

In establishing a new savings estimate for this paragraph, the department shall give priority to reinstating drugs or drug items to assist persons with chronic illness living in dependent care situations. In implementing this provision, the department shall consider the special circumstances of persons residing in nursing homes and therefore shall make available through prior authorization antihistamines and cough and cold preparations. In implementing this provision, the State Director of Health Services shall not be required to comply with Sections 14053.6 and 14184 of the Welfare and Institutions Code, insofar as the latter section requires the director to receive a report from the Medical Therapeutics and Drug Advisory Committee prior to making determinations as to the additions and deletions from the formulary.

(3) Eliminate nonemergency medical transportation services, except for the following:

(a) Ambulance transportation services as required by Section 14136.1 of the Welfare and Institutions Code.

(b) Appropriate medical transportation for patients who require continuing medical care such as dialysis, chemotherapy or radiation therapy, and who would be placed in a life-threatening situation if medical care were not provided.

(c) Appropriate medical transportation for patients being transported between a hospital and a skilled nursing facility or intermediate care facility, patients being transported from a skilled nursing facility or intermediate care facility to points of needed outpatient services, patients being discharged from a licensed health facility to their residence, patients being transferred from hospital to hospital, and patients being transferred between licensed health facilities if the State Department of Health Services has closed the facility due to violation of state licensing standards.

(4) Eliminate coverage of hearing aid replacement batteries and reduce rates of reimbursement for fitting and dispensing of hearing aids by 10 percent.

(5) Reduce rates of reimbursement for acupuncture treatment by 10 percent.

(6) Reduce rates of reimbursement for portable X-ray services by 10 percent and provide more restrictive utilization controls for portable X-ray services in accordance with Section 14133.3 of the Welfare and Institutions Code.

(7) Reduce rates of reimbursement for chiropractic by 10 percent.

(8) Reduce rates of reimbursement for laboratory and pathology services, including specimen collection and handling, which are performed by all but hospital inpatient providers, by an overall average of 25 percent. Rates for individual procedures may be

adjusted by more or less than the overall 25 percent reduction to reflect changes in technology based on appropriate relative value studies.

(9) Limit coverage of adult vision care services provided by any provider to services necessary to determine whether a condition may be present which could lead to significant disability or threaten the life of the beneficiary or others. If these circumstances are present, medically necessary diagnostic and supplementary services may also be covered. The visual acuity reading of 20/40 or poorer in the worst eye is necessary for full comprehensive visual examinations. Prescribing, directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics are not covered.

(10) Limit coverage of eyeglasses to situations when the beneficiary does not have eyeglasses available and the refractive correction supplied is at least 1.00 diopter in all meridians of both lenses. When eyeglasses are available, a 1.00 diopter change is also necessary. Astigmatic corrections of at least 1.00 diopter shall be covered. Presbyopic corrections of at least 1.00 diopter shall be covered for reading glasses.

(11) Reduce expenditures for dental services by 10 percent either through reimbursement rate reductions, service reductions, or a combination of both. Reimbursement rate or service reductions provided for under this paragraph shall be made only after consultation with the California Dental Service.

(12) Reduce by 10 percent, rates of reimbursement for psychological services provided on a fee-for-service basis.

(13) Provide for utilization controls in accordance with Section 14133.3 concerning provision of durable medical equipment.

CHAPTER 1261

An act to add Section 214.13 to, and to repeal Section 5098.6 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 18, 1984 Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 214.13 is added to the Revenue and Taxation Code, to read:

214.13. Where property under development pursuant to the Community Redevelopment Law (Pt. 1 (commencing with Sec. 33000), Div. 24, H.&S.C.) is dedicated to religious, charitable, scientific, or hospital purposes in the redevelopment plan and is required by the plan to be conveyed to the state, a county, a city, or a nonprofit entity entitled to a welfare exemption, that property shall

be deemed to be within the exemption provided for in Section 5 of Article XIII of the Constitution of the State of California and this section, and shall be exempt from property tax during construction, provided the title to the property is to be conveyed to the state, a county, a city, or nonprofit agency within three years of the completion of the construction. If that title is not passed to the state, a county, a city, or nonprofit organization entitled to a welfare exemption within three years of the completion of construction, the owner of the property shall be liable for the taxes that would have been imposed, plus a penalty of 25 percent of the amount due.

SEC. 2. Section 5098.6 of the Revenue and Taxation Code is repealed.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any property tax revenues lost by it under this act.

CHAPTER 1262

An act to amend Sections 4481, 4485, 4495, and 14087.21 of the Welfare and Institutions Code, relating to hospitals.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 4481 of the Welfare and Institutions Code is amended to read:

4481. (a) The Director of Developmental Services shall appoint and define the duties, subject to the laws governing civil service, of the clinical director and the hospital administrator for each state hospital. The director shall appoint either the clinical director or the hospital administrator to be the hospital director.

(b) The director shall appoint a medical director for each state hospital where neither the hospital director nor the clinical director is a licensed physician. The medical director shall be a physician licensed to practice medicine in California and shall be responsible for standards, coordination, surveillance, and planning for improvement of medical care in the facility. The director shall accomplish the requirements of this subdivision by a reclassification and redirection of non-level-of-care administrative positions in existence on December 31, 1983.

(c) The director shall appoint a program director for each program at a state hospital. In each hospital for the developmentally disabled, the director may appoint a medical program director.

SEC. 2. Section 4485 of the Welfare and Institutions Code is amended to read:

4485. Subject to the rules and regulations established by the department, and under the supervision of the hospital director when the hospital director is the hospital administrator, the clinical director of each state hospital shall be responsible for the planning, development, direction, management, supervision, and evaluation of all patient services, and of the supervision of research and clinical training.

SEC. 3. Section 4495 of the Welfare and Institutions Code is amended to read:

4495. Wherever the term "superintendent" appears, the term shall be deemed to mean clinical director, except in Sections 4450, 4466, 4467, 4469, 7281, and 7289, where the term shall be deemed to mean hospital administrator.

SEC. 4. Section 14087.21 of the Welfare and Institutions Code is amended to read:

14087.21. Commencing November 1, 1984, reimbursement to children's hospitals shall be on a basis that reflects the relative severity of pediatric diagnostic case types. For the purposes of this section, "children's hospital" means those hospitals where 30 percent of the infants and children served by the single institution qualify for Medi-Cal payment systems, and the institution serves primarily children.

The commission shall report to the Legislature by March 30, 1987, on its findings on the reimbursement methodology based on case mix adjustments under the provisions of this section.

This section shall remain in effect until November 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, changes or eliminates that date.

CHAPTER 1263

An act to amend Section 13332.11 of the Government Code, relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 13332.11 of the Government Code is amended to read:

13332.11. (a) No funds appropriated for capital outlay may be expended by any state agency, including the University of California, the California State University, and the community colleges, until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be financed from the appropriation for capital outlay, except that community college

approvals by the State Public Works Board shall apply only to the allocation of state capital outlay funds appropriated heretofore and hereafter by the Legislature, including land acquisition and equipment funds.

This subdivision shall not apply to any of the following:

(1) Amounts for acquisition of land or other real property.

(2) Amounts needed for equipment or minor projects.

(3) Amounts appropriated specifically for preliminary surveys, studies, and planning.

(b) Any appropriated amounts for working drawings or construction where the working drawings or construction have been started by any state agency prior to approval of the preliminary plans by the State Public Works Board, and all amounts not approved by the board under this section shall be reverted to the fund from which the appropriation was made. If the Director of Finance or his or her authorized representative requests review of working drawings, no major project for which an appropriation is made shall be put out to bid until the working drawings therefor have been approved by the Department of Finance. No substantial change shall be made from the preliminary plans or working drawings as approved by the State Public Works Board and the Department of Finance without written approval by the Department of Finance. Any proposed construction bid alternates shall be approved by the Department of Finance.

(c) No more than two thousand dollars ($2,000) of funds appropriated may be spent for any single unit of equipment until prior approval for the purchase of the equipment has been given by the Department of Finance.

(d) The State Public Works Board shall defer all augmentations in excess of 20 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(e) Augmentations in excess of 10 percent of the amount appropriated for each capital outlay project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine. Any augmentation of construction projects shall be limited to the amounts appropriated for construction contract costs and architectural and engineering services costs.

(f) Prior to State Public Works Board action on any capital outlay appropriation, the Department of Finance shall certify, in writing, to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the board that the requested action is in accordance with the legislatively approved scope and cost. If, pursuant to the other provisions of this section, the Department of Finance approves changes to the approved scope or cost, or both, the department shall report the changes and associated cost implications. The reports shall also include all proposed or potential augmentations in excess of 10

percent of the amount appropriated for construction contract costs related to capital outlay projects.

(g) The State Public Works Board shall defer action with respect to approval of any portion of an acquisition project, or approval of preliminary plans, when it is determined that the estimated cost of the total acquisition project, or construction project, approved by the Legislature is in excess of 20 percent of the amount appropriated, unless, in the case of acquisition projects, it is determined that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature, and the Chairperson of the Joint Legislative Budget Committee, or his or her designee, is provided a 20-day prior notification of the proposed reductions in the acquisition project, or whatever lesser period the chairperson, or his or her designee, may in each instance determine.

(h) Nothing in this section shall be construed to limit or control the Department of Transportation in the expenditure of all funds appropriated to the department for capital outlay purposes.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act is intended to help assure completion of the Afro-American History and Culture Museum Building and the Aerospace Science Building at the Museum of Science and Industry by the mandated completion date in September 1984, and other similarly impacted projects. In order to achieve its intended results, it is necessary that this act take effect immediately.

CHAPTER 1264

An act to add Section 11713.9 to, and to add Chapter 3 (commencing with Section 9980) to Division 3.6 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 3 (commencing with Section 9980) is added to Division 3.6 of the Vehicle Code, to read:

CHAPTER 3. ENGINE MANUFACTURERS

9980. If the manufacturer of the engine of a new motor vehicle specified in Section 9983 is different from the manufacturer of the vehicle, the vehicle shall be labeled as required by Section 9981.

For purposes of this chapter, the manufacturer of a motor vehicle

engine is different from the vehicle manufacturer if a majority of parts, or most of the work of assembly, of the engine is provided by a person other than the vehicle manufacturer or a subsidiary or affiliate of the vehicle manufacturer. For purposes of this chapter, an "affiliate" is an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the manufacturer of the vehicle.

9981. The manufacturer of any vehicle subject to Section 9980 shall affix a prominent label to the vehicle stating that the engine in the vehicle may have been manufactured by another manufacturer. The label shall be located on or adjacent to the window sticker identifying the manufacturer's suggested retail price for the vehicle or, if none, it shall be located on or adjacent to the window sticker identifying the equipment provided with the vehicle. This label, however, is not required if the manufacturer of the engine contained in the vehicle is disclosed in sales literature or is noted in the sales contract.

9982. This chapter applies only to new passenger vehicles and to new motortrucks with an unladen weight under 6,000 pounds, except housecars.

SEC. 2. Section 11713.9 is added to the Vehicle Code, to read:

11713.9. (a) It is unlawful and a violation of this code for the holder of a dealer's license to knowingly display for sale or offer for sale any new motor vehicle specified in subdivision (b) with an engine manufactured by a manufacturer that is not the same as the vehicle manufacturer, as defined in Section 9980, unless the vehicle is prominently labeled as specified in Section 9981.

(b) This section applies only to new passenger vehicles and to new motortrucks with an unladen weight under 6,000 pounds, except housecars.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1265

An act to amend Sections 12160.5 and 15907 of the Fish and Game Code, relating to fish.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 12160.5 of the Fish and Game Code is amended to read:

12160.5. Upon conviction of any person from whom fish were seized pursuant to Section 12159 for violating any law regarding the taking, possession, sale, or transportation of fish for a commercial purpose and the violation involves a vessel operating under a crew sharing agreement, the court shall determine if the vessel was so operating and order the crew's share of the proceeds generated from the seizure of the fish pursuant to Section 12160 to be paid to those members of the crew who are not charged with, or are acquitted of, a violation arising from the same occurrence on which the seizure was based.

"Crew's share" means that portion of the net proceeds for the fish taken which is payable to those persons designated by agreement as crew for that fishing operation whose compensation includes a share of such net proceeds.

The department shall submit a report to the Legislature by January 1, 1986, describing the effects of this section, including, but not limited to, the arrest and conviction rate of boat captains and crew, the effects upon state revenues, the quantities and species illegally taken, and the number of licenses and certificates revoked pursuant to Sections 12002.6, 12002.7, and 12002.8.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 2. Section 15907 of the Fish and Game Code is amended to read:

15907. This chapter shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

CHAPTER 1266

An act to amend Sections 75.70 and 98.6 of the Revenue and Taxation Code, relating to public finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 75.70 of the Revenue and Taxation Code, as amended by Chapter 447 of the Statutes of 1984, is amended to read:

75.70. (a) Notwithstanding any other provision of law, for the

1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding accounting period.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing board is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each city within the county an amount equal to the total amount of additional revenues generated by the rate levied

pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(6) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding accounting period.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

SEC. 1.5. Section 98.6 of the Revenue and Taxation Code, as amended by Chapter 448 of the Statutes of 1984, is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter,

the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council and shall publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The notice shall include the amount of funds available to special districts, and the time and place of the hearing.

Within 30 days of the notice of allocation, the governing body shall determine the amount of funds to be disbursed to each special district. In determining the amount of funds to be disbursed to each special district, the governing body shall not:

(1) Consider as district revenues any assessments, charges, or special taxes collected pursuant to Section 50077 or 50078 or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of

Division 2 of Title 5 of the Government Code.

(2) Allocate to a district which collected those assessments, charges, or special taxes, an amount less than the amount which would have been allocated to the district had it not collected any assessments, charges, or special taxes.

(3) Consider revenues distributed to the district from the supplemental unsecured property tax revenue as defined in Section 97.1.

(4) Allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(c) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(d) The funds provided for by subdivisions (b) and (c) shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) and (b), and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" has the same meaning as it does in Section 21060.3 of the Public Resources Code.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(e) Notwithstanding paragraphs (1), (2), and (3) of subdivision (b), the governing body may reduce the allocation to a district which collected those assessments, charges, or special taxes:

(1) To an amount which is generated by that district pursuant to paragraph (2) of subdivision (a).

(2) As a result of an emergency resolution adopted pursuant to Section 29127 of the Government Code.

(f) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

(g) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

SEC. 2. The sum of seventeen million five hundred fifty-six thousand twenty-nine dollars and three cents ($17,556,029.03) is hereby transferred from the General Fund to the Motor Vehicle License Fee Account in the Transportation Tax Fund and is hereby appropriated from that account to the Controller for allocation to local agencies pursuant to subdivision (b) of Section 11005 of the Revenue and Taxation Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act, which would make statutory changes necessary to effectively implement Chapters 447 and 448 of the Statutes of 1984 providing for local government financing during the 1984–85 fiscal year, may take effect as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1267

An act to amend Section 1917.020 of the Civil Code, relating to real property loans.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 1917.020 of the Civil Code is amended to read:

1917.020. For purposes of this chapter:

(a) "Adjusted fair market value" means all of the following:

(1) The net sale price, in the case of a bona fide sale made in good faith prior to the maturity date of the shared appreciation loan, but excluding any sale upon a foreclosure or trustee's sale pursuant to Section 726 of the Code of Civil Procedure or Section 2924.

(2) In all other cases, the amount of value of the property specified in the most recent annual appraisal performed pursuant to Section 1917.040 or 1917.042.

(b) "Borrower's cost of the property" means the total cost to the borrower incident to the purchase of the property, including documentary transfer taxes, escrow and recording fees, and title insurance premiums.

(c) "Contingent deferred interest" means the sum resulting upon multiplying the net appreciated value by one-third.

(d) "Cost of capital improvements" means the amount of the credit, if any, determined pursuant to Article 5 (commencing with Section 1917.050).

(e) "Lender" means any person who makes a shared appreciation loan on behalf of a pension fund specified in Section 1917.030. Subsequent to an assignment of a shared appreciation loan to a pension fund pursuant to Section 1917.030, "lender" shall mean the pension fund assignee (or any subsequent assignee) and its agents designated to service the shared appreciation loan.

(f) "Net appreciated value" means the adjusted fair market value less the sum of the borrower's cost of the property and the cost of capital improvements.

(g) "Net sale price" means the gross sale price less expenses of sale actually paid by the borrower, including real estate commissions, advertising, documentary transfer taxes, legal, escrow and recording fees, and title insurance premiums.

(h) "Prevailing rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market system auction for four-month conventional mortgage commitments or, if the Federal National Mortgage Association alters its free market system auction, then the system which is adopted by the Federal National Mortgage Association which substantially replaces or supersedes the present free market system auction for four-month commitments, or if no auction or equivalent thereof has been conducted within the six months immediately preceding the date the application for a shared appreciation mortgage loan is executed, the weighted average cost of funds for the 11th District Savings and Loan Associations as computed by the Federal Home Loan Bank of San Francisco.

(i) "Shared appreciation loan" means any loan made pursuant to this chapter upon the security of owner-occupied real property of a type specified in Section 1917.030, and in connection with which the lender has a right to receive a share of the appreciation in the value of the security property. "Shared appreciation loan" includes a deed of trust and any evidence of debt issued in connection with the loan.

CHAPTER 1268

An act to add Section 8.2 to the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 8.2 is added to the County Water Authority Act (Chapter 545 of the Statutes of 1943), to read:

Sec. 8.2. (a) Any authority may, pursuant to this section, borrow money and incur indebtedness from time to time for any of the purposes for which it is authorized by law to spend money. The indebtedness shall be evidenced by short-term revenue certificates issued in the manner and subject to the limitations set forth in this section. Any authority may also borrow money and incur indebtedness to pay the principal or interest on certificates issued pursuant to this section.

(b) Certificates issued by any authority pursuant to this section may be negotiable or nonnegotiable, and all certificates shall be, and shall recite upon their face that they are, payable both as to principal and interest out of any revenues of the authority which are made security for the certificates pursuant to an indenture or resolution duly adopted by the board of directors. The word "revenues," as used in this section, refers to any revenues derived from the sale of water and power, annexation charges (whether collected through tax levies or otherwise), grants, available tax revenues, or any other legally available funds. In no event shall any resolution or indenture preclude payment from the proceeds of sale of other certificates issued pursuant to this section or from amounts drawn on a bank, or other financial institution, lines of credit pursuant to subdivision (e), or from any other lawfully available source of funds.

(c) In order to exercise the power to borrow money pursuant to this section, the board shall adopt a resolution, or approve an indenture, authorizing the sale and issuance of certificates for that purpose, which resolution or indenture shall specify all of the following:

(1) The purpose or purposes for which the proposed certificates are to be issued.

(2) The maximum principal amount of the certificates which may be outstanding at any one time.

(3) The maximum interest cost, to be determined in the manner specified in the resolution, to be incurred through the issuance of the certificates.

(4) The maximum maturities of the certificates, which shall not exceed 270 days from the date of issue.

(5) The obligations to certificate holders while the certificates are outstanding.

(d) The board may also provide, in its discretion, for any of the following.

(1) The times of sale and issuance of the certificates, the manner of sale and issuance (either through public or private sale), the amounts of the certificates, the maturities of the certificates, the rate of interest, the rate or discount from par, and any other terms and conditions deemed appropriate by the board or by the general

manager of the authority or any other officer designated by the board.

(2) The appointment of one or more banks or trust companies, either inside or outside the state, as depository for safekeeping and as agent for the delivery, and the payment, of the certificates.

(3) The employment of one or more persons or firms to assist the authority in the sale of the certificates, whether as sales agents, dealer managers, or in some other comparable capacity.

(4) The refunding of the certificates from time to time without further action by the board, unless and until the board specifically revokes that authority to refund.

(5) Other terms and conditions the board may deem appropriate.

(e) The board may arrange for a bank, or other financial institution, line of credit for (1) the purpose of providing an additional source of repayment for indebtedness incurred under this section and any interest thereon or (2) for the purpose of borrowing for any purpose for which short-term revenue certificates could be issued under this section. Amounts drawn on the lines of credit may be evidenced by negotiable or nonnegotiable promissory notes or other evidences of indebtedness. The board is authorized to use any of the provisions of this section in connection with the entering into of the line of credit, borrowing thereunder, or repaying of the borrowings.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize a county water authority to borrow money at the earliest possible time to provide urgently needed services within the territory of the authority, it is necessary that this act take effect immediately.

CHAPTER 1269

An act to amend Section 73113.5 of, to add Section 69906 to, and to repeal Section 73122 of, the Government Code, relating to courts.

[Approved by Governor September 18, 1984. Filed with Secretary of State September 19, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 69906 is added to the Government Code, to read:

69906. In any county with a population of less than 715,674 but more than 631,498, as determined by the 1970 federal census, a majority of the judges of the superior court may appoint such officers or employees as are expressly authorized by law and, with the approval of the board of supervisors, may establish such additional titles and may appoint such additional commissioners, officers,

assistants, and other employees as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. At the request of the judges or the superior court executive officer, county personnel services shall assist in the recruitment and examination of court personnel, but such personnel shall be court rather than county personnel and shall serve at and may be terminated at the pleasure of a majority of the judges. Other provisions of county civil service or personnel rules or procedures shall not be applicable to court employees unless made applicable by local court rule. Except as otherwise expressly provided by statute, salaries of all court personnel shall be fixed and adjusted by mutual agreement of a majority of the judges and the board of supervisors; provided, that the salary of any court investigator appointed by the court pursuant to Section 1454 of the Probate Code shall be fixed by a majority of the judges of the court. Benefits other than salary shall, for all court personnel, be the same as are now or may hereafter be provided to comparable county classifications, as such comparability is determined by agreement of the majority of judges and the board of supervisors, but shall not exceed those provided for the comparable county classifications. To the extent necessary, and for the sole purpose of implementing the intent of this section, court employees shall be deemed county employees for inclusion in those benefit programs provided county employees as a group or groups. All court employees except pro tempore court reporters shall, if otherwise eligible under statutory and retirement association membership requirements, be included in the county's retirement system.

SEC. 2. Section 73113.5 of the Government Code is amended to read:

73113.5. Whenever reference is made to a numbered salary range in any section of this chapter, the salary schedule found in the salary ordinance of San Bernardino County in effect on July 1, 1982, shall apply.

Administration of the salary plan provided by this chapter, including the hiring date; increases within range; salary on promotion, transfer, or demotion; salary on position reclassification, obligations and benefits and all other relevant matters, shall be in accordance with the current personnel rules and ordinances of the County of San Bernardino.

Notwithstanding any other provisions of law, the salary and classifications of municipal court employees provided by Sections 73107, 73110, 73113, 73114, 73122, and this section may be increased or decreased within the range limits of the salary schedule incorporated by reference by this section in order to provide classification and compensation that is comparable to county employees of similar qualifications and experience in the classified service of San Bernardino County as such comparability is determined by the board of supervisors. Any salary increases granted or reclassifications made pursuant to this paragraph shall be effective only until January 1, 1986.

SEC. 3. Section 73122 of the Government Code is repealed.